

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2022-001**

**RESOLUTION APPROVING THE APPOINTMENT OF KAREN BURCH, AS THE DRYDEN WOMEN'S GOLF CLUB REPRESENTATIVE, AND THE REAPPOINTMENT OF PAM GIUSTO AS A MEMBER-AT-LARGE, TO THE GOLF COURSES ADVISORY COMMITTEE, FROM JANUARY 1, 2022 THROUGH DECEMBER 31, 2025**

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 Golf Courses Advisory Committee is comprised of five members representing local golf organizations: SIRS Golf Club, Muni-Niners Golf Club, Modesto Golf Club, Creekside Golf Club, and Dryden Women's Golf Club, and six Members-At-Large; and

WHEREAS, Karen Burch, representing the Dryden Women's Golf Club, is seeking appointment; and

WHEREAS, by Resolution No. 2018-327, Council appointed Pam Giusto to the Golf Courses Advisory Committee as a Member-at-Large; and

WHEREAS, the Appointments Committee met on December 16, 2021, and recommended the appointment of Karen Burch as the Dryden Women's Golf Club representative and the reappointment of Pam Giusto as a Member-at-Large; and

WHEREAS, each will serve from January 1, 2022 through December 31, 2025.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the appointment of Karen Burch, as the Dryden Women's Golf Club representative, to the Golf Courses Advisory Committee, from January 1, 2022 through December 31, 2025.

BE IT FURTHER RESOLVED, that it hereby approves the reappointment of Pam Giusto as a Member-at Large, to the Golf Courses Advisory Committee from January 1, 2022 through December 31, 2025.

BE IT FURTHER RESOLVED that the Interim City Clerk is hereby directed to transmit a copy of this resolution to the 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 11th day of January, 2022, by Councilmember Wright, who moved its adoption, which motion being duly seconded by Councilmember Escutia-Braaton, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Escutia-Braaton, Madrigal, Ricci, Wright, Zoslocki, Mayor Zwahlen

NOES: Councilmembers: None

ABSENT: Councilmembers: Kenoyer

ATTEST:   
DANA SANCHEZ, Interim City Clerk

(SEAL)

APPROVED AS TO FORM:

BY:   
JOSE M. SANCHEZ, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2022-002**

**RESOLUTION REAPPOINTING PERVEZ KHAN AND CHRIS MURPHY FOR  
A THIRD TWO-YEAR TERM, AND ANGELA CANGIAMILLA, FOR A  
SECOND TWO-YEAR TERM, TO THE MODESTO CONVENTION AND  
VISITORS BUREAU BOARD OF DIRECTORS FROM JANUARY 1, 2022  
THROUGH DECEMBER 31, 2023**

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, Resolution No. 2019-201 affirms Council's authority to appoint members to the Modesto Convention and Visitors Bureau's Board of Directors; and

WHEREAS, on May 7, 2019, by Resolution No. 2019-202, Council approved the appointments of Pervez Khan and Chris Murphy to the Modesto Convention and Visitors Bureau Board of Directors; and

WHEREAS, on March 3, 2020, by Resolution No. 2020-118, Council approved the reappointments of Pervez Khan and Chris Murphy to the Modesto Convention and Visitors Bureau Board of Directors for a second two-year term; and

WHEREAS, Pervez Khan and Chris Murphy have each expressed a desire to serve a third and final two-year term as permitted by the bylaws; and

WHEREAS, on October 22, 2020 by Resolution No. 2020-468, Council appointed Angela Cangiamilla to the Modesto Convention and Visitors Bureau Board of Directors; and

WHEREAS, Angela Cangiamilla has expressed a desire to serve a second two-year term as permitted by the bylaws.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby reappoints Pervez Khan and Chris Murphy to the Modesto Convention and

Visitors Bureau Board of Directors for a third and final term from January 1, 2022 through December 31, 2023.

BE IT FURTHER RESOLVED, that it hereby reappoints Angela Cangiamilla to the Modesto Convention and Visitors Bureau Board of Directors for a second two-year term from January 1, 2022 through December 31, 2023.


BE IT FURTHER RESOLVED that the Interim City Clerk is hereby directed to transmit a copy of this resolution to the appointed members of the Modesto Convention and Visitors Bureau, and the Secretary, thereof.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 11th day of January, 2022, by Councilmember Wright, who moved its adoption, which motion being duly seconded by Councilmember Zoslocki, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Escutia-Braaton, Madrigal, Ricci, Wright, Zoslocki, Mayor Zwahlen


NOES: Councilmembers: None

ABSENT: Councilmembers: Kenoyer

ATTEST:   
DANA SANCHEZ, Interim City Clerk

(SEAL)

APPROVED AS TO FORM:

BY:   
JOSE M. SANCHEZ, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2022-003**

**RESOLUTION CONTINUING TO AUTHORIZE REMOTE  
TELECONFERENCE MEETINGS OF THE CITY OF MODESTO PURSUANT  
TO ASSEMBLY BILL 361**

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

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

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

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

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

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

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

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

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

WHEREAS, on September 28, 2021, the City Council adopted Resolution No. 2021-370 authorizing remote teleconference meetings pursuant to AB361 (Government Code section 54953(e)); and

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

WHEREAS, the City Council has considered the circumstances of the Governor’s state of emergency proclamation pursuant to Government Code section 8625, which remains active; and

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

WHEREAS, the City Council, acting for itself and for the benefit of all of the City’s commissions, committees, and other bodies (collectively referred to as the “Legislative Bodies”), does hereby find that the Legislative Bodies shall continue to conduct their meetings without compliance with Government Code section 54953(b)(3), as authorized by Government Code section 54953(e), and that the Legislative Bodies shall continue to comply with the requirements to provide the public with access to the meetings as prescribed in Government Code section 54953(e)(2) as a consequence of the ongoing state of emergency and the continued social distancing measures required by local officials.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF MODESTO DOES HEREBY RESOLVE AS FOLLOWS:

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

Section 2. Consideration of State of Emergency. The City Council has considered the conditions of the state of emergency declared pursuant to Government Code section 8625, and determined that such emergency conditions continue to be present in the City.

Section 3. Continued Social Distancing Measures by State and Local Officials. The City Council finds that the County of Stanislaus Health Officer’s recommended measures to promote social distancing remain in effect.

Section 4. Remote Teleconference Meetings. The City Council finds that the conditions continue to exist pursuant to Government Code section 54953(e)(3) to allow Legislative Bodies to use teleconferencing to hold public meetings in accordance with Government Code section 54953(e)(2) to ensure members of the public have continued access to safely observe and participate in local government meetings.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 11th day of January, 2022, by Councilmember Wright, who moved its adoption, which motion being duly seconded by Councilmember Ricci, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Escutia-Braaton, Madrigal, Ricci,  
Wright, Zoslocki, Mayor Zwahlen

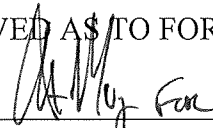
NOES: Councilmembers: None

ABSENT: Councilmembers: Kenoyer

ATTEST:   
DANA SANCHEZ, Interim City Clerk

(SEAL)

APPROVED AS TO FORM:

BY:   
JOSE M. SANCHEZ, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2022-004**

**RESOLUTION APPROVING A LOAN AGREEMENT AND LOAN TO THE  
CITY OF MODESTO REDEVELOPMENT SUCCESSOR AGENCY IN THE  
AMOUNT OF \$300,000 PURSUANT TO HEALTH AND SAFETY CODE  
SECTION 34173(h)(1) AND AUTHORIZING THE CITY MANAGER, OR HIS  
DESIGNEE TO EXECUTE THE LOAN AGREEMENT**

WHEREAS, the City of Modesto Redevelopment Successor Agency (the “**Successor Agency**”) is the successor in interest to the Redevelopment Agency of the City of Modesto and is subject to, among other things, provisions in Assembly Bill x1 26 (together with AB 1484 and SB 107, the “**Dissolution Act**”); and

WHEREAS, on January 23, 2017 Civic Partners Modesto, Inc. (“**Civic Partners**”) filed Case No. 9000266 against the Successor Agency in Stanislaus Superior Court (the “**Litigation**”); and

WHEREAS, after years of negotiation and mediation, the Successor Agency and Civic Partners have agreed to settle the Litigation (the “**Settlement Agreement**”); and

WHEREAS, in order to settle the Litigation, the Successor Agency has agreed to provide a settlement amount to Civic Partners in the amount of Three Hundred Thousand Dollars (\$300,000) (the “**Settlement Amount**”); and

WHEREAS, pursuant to Section 34177.3 of the Dissolution Act, the Agency may not create a new enforceable obligation (defined in Section 34171(d) of the Dissolution Act) except in compliance with an existing enforceable obligation that existed prior to June 28, 2011; and

WHEREAS, the Successor Agency is entering into the Settlement Agreement, thereby creating a new enforceable obligation, with respect to agreements that were in

full force and effect between the Successor Agency and Civic Partners prior to June 28, 2011; and

WHEREAS, in order to pay the Settlement Amount within the time period negotiated in the Settlement Agreement, the Successor Agency will need to borrow funds from the City and reimburse the City from Redevelopment Property Tax Trust Funds (“**RPTTF**”), as defined in the Dissolution Act; and

WHEREAS, pursuant to Section 34173(h)(1) of the Dissolution Act, the City is authorized to loan funds to the Successor Agency to pay for enforceable obligations (the “**City Loan**”), and an enforceable obligation shall be deemed to be created for the repayment of the City Loan; and

WHEREAS, the Successor Agency is entering into this Agreement to borrow the Settlement Amount to be paid under the Settlement Agreement; and

WHEREAS, the Successor Agency Board approved the Settlement Agreement on January 11, 2022; and

WHEREAS, concurrently at this meeting, the Successor Agency Board is approving the City Loan from the City to the Successor Agency; and

WHEREAS, City and Successor Agency staff have prepared a loan agreement (the “**Loan Agreement**”), substantially in the form on file with the City Clerk and as presented to this City Council; and

WHEREAS, the Settlement Agreement and the Loan Agreement were both approved by the Oversight Board to the Successor Agency on January 10, 2022, contingent on the approval by the Successor Agency of the Settlement Agreement and the

approval of the City Council and the Successor Agency Board of the Loan Agreement;  
and

WHEREAS, the loan from the City to the Successor Agency was included on the 2022-2023 Recognized Obligation Payment Schedule (“**ROPS**”), which was approved by the Oversight Board on January 10, 2022.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the Loan Agreement, substantially in the form on file with the City Clerk, and as presented to this City Council.

BE IT FURTHER RESOLVED, that the City Manager, or his designee, is hereby authorized to execute the Loan Agreement, in a form approved by the City Attorney, and to execute all documents and to take all actions necessary to carry out the intent 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 January, 2022, by Councilmember Wright, who moved its adoption, which motion being duly seconded by Councilmember Zoslocki, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Escutia-Braaton, Madrigal, Ricci,  
Wright, Zoslocki, Mayor Zwahlen

NOES: Councilmembers: None

ABSENT: Councilmembers: Kenoyer

ATTEST:   
DANA SANCHEZ, Interim City Clerk

(SEAL)

APPROVED AS TO FORM:

BY:   
JOSE M. SANCHEZ, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2022-005**

**RESOLUTION AMENDING THE FISCAL YEAR 2021-22 ANNUAL  
OPERATING AND CAPITAL IMPROVEMENT PROJECT FUND BUDGETS  
AND AUTHORIZING THE CITY MANAGER, TO TAKE THE NECESSARY  
STEPS TO IMPLEMENT THE PROVISIONS OF THIS RESOLUTION**

WHEREAS, a financial analysis has been completed and it has been determined that a budget adjustment is required to the Annual and Capital Improvement Budgets of the City of Modesto for Fiscal Year 2021-22.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves amending the Fiscal Year 2021-22 Annual Operating and Capital Improvement budget as shown in **Exhibit A**, which is **attached** hereto and incorporated by reference herein.

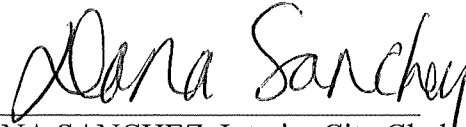
BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to take the necessary steps to implement the provisions of this resolution.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 11th day of January, 2022, by Councilmember Wright, who moved its adoption, which motion being duly seconded by Councilmember Ricci, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Escutia-Braaton, Madrigal, Ricci,  
Wright, Zoslocki, Mayor Zwahlen

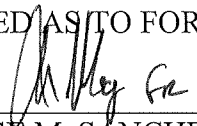
NOES: Councilmembers: None

ABSENT: Councilmembers: Kenoyer

ATTEST:   
DANA SANCHEZ, Interim City Clerk

(SEAL)

APPROVED AS TO FORM:

BY:   
JOSE M. SANCHEZ, City Attorney

## **EXHIBIT A**

### **FISCAL YEAR 2021-22**

#### **COMMUNITY & ECONOMIC DEVELOPMENT**

- A budget adjustment is needed to reduce the amount of Emergency Solutions Grants Coronavirus Aid, Relief, and Economic Security, Coronavirus Allocation (ESG CARES CV) Act funding budgeted for project 101258, in the amount of \$266,427. As part of the budget adoption for Fiscal Year 2022, the total budgeted to be transferred out of the project increased, however the adjustment to reduce the corresponding task in the project was missed. This will not affect the total amount of the grant. There is no impact on the General Fund.

#### **PARKS, RECREATION AND NEIGHBORHOODS**

- A budget adjustment in the amount of \$150,000 is needed to establish a transfer from the Parks Capital Facility Fee Fund 3460 to Project 101379 – Tuolumne River Regional Parks (TRRP) Gateway Phase III and allocate funds to the project discretionary tasks. This project will create an outdoor event venue and Amphitheatre in the TRRP Gateway parcel near 10<sup>th</sup> Street and Morton Boulevard.

#### **POLICE DEPARTMENT**

- A budget adjustment in the amount of \$206,986 is needed to recognize revenue received as part of the annual allocation of the State Supplemental Law Enforcement Fund (SLESF) 2020-2021 (Project 101284). These funds will be used for police overtime, training, technology and equipment to fulfill the purpose of the Fund which is to “provide for additional resources for local law enforcement and to benefit front line law enforcement services”.
- A budget adjustment in the amount of \$125,206 is needed for the purchase of two vans, mentioned in the fleet item also on the December 20, 2021 Finance Committee meeting and outfitting costs for the Modesto Police Department (MPD) Homeless Program (Fund 1342, Cost Center 19205) as well as increasing the Transfer In from the Emergency Solutions Grants – CARES Act (ESG-CV) Funding, Project 101258 (Fund 1180), by the same amount.

#### **UTILITIES**

- A budget adjustment in the amount of \$1,235,000 is necessary in the Water CIP Fund (4180) to create and establish the expense budget for the Sylvan Water Main Upgrade Capital Project (101367). This project will improve water flow and pressure to this area along with putting in place the required infrastructure for the future Tivoli Development.
- A budget adjustment in the amount of \$87,875 is necessary in the Water CIP Fund (4180) to create and establish the expense budget for the Well Equipping Design Template Non-Capital Project (101368). This project will assist staff and consultants in the standardization of future well projects.

- A budget adjustment in the amount of \$1,935,000 is necessary in the Wastewater Fund (4210) to create and establish the expense budget for the Sonoma Sewer Trunk Extension Phase 3 Capital Project (101370). This project will fund the installation of the new Sonoma Sewer Trunk Extensions along Future Aria Way from Sylvan Road to Bridgewood Way for the future Tivoli Development. This phase will be designed concurrently with Phase 4.
- A budget adjustment in the amount of \$1,935,000 is necessary in the Wastewater Fund (4210) to create and establish the expense budget for the Sonoma Sewer Trunk Extension Phase 4 Capital Project (101371). This project will fund the installation of the new Sonoma Sewer Trunk Extensions along Future Aria Way from Bridgewood Way to Mable Avenue for the future Tivoli Development. This phase will be designed concurrently with Phase 3.
- A budget adjustment in the amount of \$775,000 is necessary in the Wastewater Fund (4210) to create and establish the expense budget for the MCC Replacement Non-Capital Project (101372). This project will replace the Motor Control Center (MCC) Panels at the Sutter and Jennings Wastewater Treatment Plants.
- A budget adjustment in the amount of \$394,000 is necessary in the Wastewater Fund (4210) to create and establish the expense budget for the Nitrate Control - Pathway A Non-Capital Project (101373). This project will fund the installation of monitoring wells at the Sutter and Jennings Wastewater Treatment Plants to determine groundwater characteristic in order to develop a compliance strategy in accordance with our discharge permits.
- A budget adjustment in the amount of \$599,000 is necessary in the Wastewater Fund (4210) to create and establish the expense budget for the Jennings Monitoring Well Network Improvements Non-Capital Project (101374). This project will fund improvements to the existing monitoring well network including increasing operational efficiency, reductions in redundancy and the identification and elimination of wells that do not provide representative compliance monitoring data.
- A budget adjustment in the amount of \$2,000,000 is necessary in the Wastewater Fund (4210) to create and establish the expense budget for the 2020-2021 Sanitary Sewer Replacement Project (101375). This project will strengthen and replace existing infrastructure along with identifying locations for intermediate manholes to be added.

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2022-006**

**RESOLUTION APPROVING THE “UPSTREAMING” OF THE REMAINING EMERGENCY RENTAL ASSISTANCE PROGRAM (ERAP) 1 FUNDS BACK TO THE US TREASURY TO BE REALLOCATED TO THE STATE OF CALIFORNIA WITH A DESIGNATION FOR MODESTO RESIDENTS IN THE AMOUNT OF \$2,327,945 AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE ANY DOCUMENTS RELATED TO THE PURPOSE OF THIS RESOLUTION**

WHEREAS, on December 21, 2020, Congress passed the Consolidated Appropriations Act of 2021 and the Emergency Rental Assistance program made available \$25 billion nationwide to assist households that are unable to pay rent and utilities due to the COVID-19 pandemic, and

WHEREAS, the funds are provided directly to States, U.S. Territories, local governments, and Indian tribes and grantees will use the funds to provide assistance to eligible households through existing or newly created rental assistance programs, and

WHEREAS, the Stanislaus Emergency Rental Assistance Program opened to the public on Wednesday, February 24, 2021, and

WHEREAS, as of January 4, 2022, the City has paid \$3,430,390.85 of ERAP1 Funds on behalf of 475 eligible households, and

WHEREAS, the City ERAP Program including administration we would have expended \$4,070,205.95, and

WHEREAS, in August 2021, the Local Program portal was closed, and all new applicants were directed to the State of California COVID-19 Rent Relief Program (State Program), and

WHEREAS, the City has been in close contact and has held weekly check-in meetings with the State Program team since August 2021, and

WHEREAS, the City inquired with the State regarding the possibility of an undersubscription and the administration of these funds on the City's behalf, and

WHEREAS, the Federal guidance was released November 15, 2021 with an immediate due date for the City to make a decision to "upstream" the remaining funds back to the US Treasury to be reallocated to the State of California with the designation for City of Modesto residents, and

WHEREAS, as of January 4, 2022, The State has received 2,792 applications which requested \$33,496,572 from City of Modesto residents and to date the State have processed 551 applications totaling \$4,310,612, and

WHEREAS, staff is requesting any Local Program funds to be immediately be redirected to the State Program to support the \$25 million in funding requests.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the "upstreaming" of the remaining funds back to the US Treasury to be reallocated to the State of California with a designation for Modesto residents in the amount of \$2,327,945.

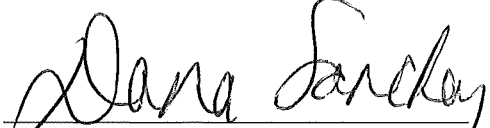
BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to execute any documents related to the purpose of this resolution, in a form approved by the City Attorney.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 11th day of January, 2022, by Councilmember Wright, who moved its adoption, which motion being duly seconded by Councilmember Ricci, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Escutia-Braaton, Madrigal, Ricci,  
Wright, Zoslocki, Mayor Zwahlen

NOES: Councilmembers: None

ABSENT: Councilmembers: Kenoyer

ATTEST:   
DANA SANCHEZ, Interim City Clerk

(SEAL)

APPROVED AS TO FORM:

BY:   
JOSE M. SANCHEZ, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2022-007**

**RESOLUTION AMENDING THE FISCAL YEAR 2021-2022 MULTI-YEAR FUND BUDGET, REDUCING THE ALLOCATION OF CONSOLIDATED APPROPRIATIONS ACT OF 2021 FUNDS FROM THE US DEPARTMENT OF TREASURY WITH APPROPRIATE REVENUE AND EXPENDITURE ALLOCATIONS AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO RETURN THE FEDERAL EMERGENCY RENTAL ASSISTANCE (ERA) #1 FUNDING RECEIVED ON JANUARY 25, 2021, IN AN AMOUNT OF \$2,327,945, TO THE U.S. TREASURY AND AUTHORIZING THE CITY MANAGER OR HIS DESIGNEE, TO TAKE THE NECESSARY STEPS TO IMPLEMENT THE PROVISIONS OF THIS RESOLUTION**

WHEREAS, the COVID-19 virus, better known as the novel Coronavirus, is a respiratory virus that has spread across the world and has created a global pandemic by devastating communities and the world economy, and

WHEREAS, to respond to this pandemic, Congress passed the Consolidated Appropriations Act of 2021 into law which provided \$25 billion to assist households that are unable to pay rent and utilities due to the COVID-19 pandemic, and

WHEREAS, the Consolidated Appropriations Act included direct allocations to California jurisdictions with populations of 200,000 or more, the City of Modesto Program has been directly allocated \$6,398,151 to establish an Emergency Rental Assistance Program (Federal ERA #1), and

WHEREAS, these funds will be disbursed to eligible COVID-19 expenditures and meet the Treasury guidelines defined under the Consolidated Appropriations Act and must be expended no later than December 30, 2021, and

WHEREAS, the City had three options for how to administer the emergency rental assistance program: the State can manage both the State and Federal allocation (Option A), the City can manage both the State and Federal allocation (Option B), or the

City can manage a local program with the Federal allocation and the State manage the State program with the State allocation, (Option C), and

WHEREAS, the City initially decided to administer the emergency rental assistance program locally, in partnership with Stanislaus County and the Housing Authority, and

WHEREAS, the City of Modesto has been working with Stanislaus Regional Housing Authority to develop a public-private partnership to distribute ERA Program funds to eligible members of the community, and work in partnership with existing housing support programs and resources, and

WHEREAS, Section 501(d) of the Act requires Treasury to recapture excess award funds not obligated by ERA #1 grantees may reallocate such funds beginning on September 30, 2021, and

WHEREAS, grantees may request to voluntarily reallocate some or all of their remaining ERA #1 award funds to another ERA #1 grantee, and

WHEREAS, the City of Modesto is designating \$2,327,945 to be reallocated to California Department of Housing and Community Development, and

WHEREAS, in order to reallocate to California Department of Housing and Community Development, the City must return the Federal ERA #1 funding received on January 25, 2021, in an amount of \$2,327,945 to the US Treasury.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto Resolution that it hereby amends the Fiscal Year 2021-2022 Multi-Year Fund Budget, reducing the allocation of Consolidated Appropriation Act of 2021 funds from the US

Treasury as outlined in **Exhibit A** and approve the reduction of these funds in multi-year operating projects with appropriate revenue and expenditure allocations.

BE IT FURTHER RESOLVED that the City Manager, or his designee, is authorized to return the Federal ERA #1 funding received on January 25, 2021, in an amount of \$2,327,945, to the U.S. Treasury.

BE IT FURTHER RESOLVED that authorizing the City Manager, or his designee, to carry out administrative actions or execute any agreements required for the City to carry out the purpose and intent 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 January, 2022, by Councilmember Wright, who moved its adoption, which motion being duly seconded by Councilmember Ricci, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Escutia-Braaton, Madrigal, Ricci,  
Wright, Zoslocki, Mayor Zwahlen

NOES: Councilmembers: None

ABSENT: Councilmembers: Kenoyer

ATTEST

  
DANA SANCHEZ, Interim City Clerk

(SEAL)

APPROVED AS TO FORM:

BY:

  
JOSE M. SANCHEZ, City Attorney

**Exhibit A**

**BUDGET ADJUSTMENT FISCAL YEAR 2021-2022**

<i>City of Modesto</i>		<b>Funds Reimbursed with Treasury Funds</b>				
<i>Community &amp; Economic Development Department</i>		Emergency Rental Assistance Program				
<i>Community Development Division</i>		FUND 1344				
		COST CENTER 14998				
	Project	Cost Center		Current	ADJUSTMENT	FINAL PROPOSED
Federal - Discretionary Expenses - Appr Unit C - Round 1	101306		Direct Grants	\$ 6,398,151.00	\$ (2,327,945.00)	\$ 4,070,206.00
<b>TOTAL Expenses</b>				<b>\$ 6,398,151.00</b>	<b>\$ (2,327,945.00)</b>	<b>\$ 4,070,206.00</b>
Federal Round 1		42090	Revenue	\$ 6,398,151.00	\$ (2,327,945.00)	\$ 4,070,206.00
<b>TOTAL Revenues</b>				<b>\$ 6,398,151.00</b>	<b>\$ (2,327,945.00)</b>	<b>\$ 4,070,206.00</b>
<b>Total</b>				<b>\$ -</b>	<b>\$ -</b>	<b>\$ -</b>

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2022-008**

**RESOLUTION AMENDING THE FISCAL YEAR 2021-2022 MULTI-YEAR FUND BUDGET, AMENDING THE ALLOCATION OF AMERICAN RESCUE PLAN ACT OF 2021 FUNDS FROM THE DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT WITH APPROPRIATE REVENUE AND EXPENDITURE ALLOCATIONS AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO ACCEPT THE STATE EMERGENCY RENTAL ASSISTANCE (ERA) 2 FUNDING RECEIVED ON NOVEMBER 23, 2021, IN THE AMOUNT OF \$60,751, AND AUTHORIZING THE CITY MANAGER OR HIS DESIGNEE, TO TAKE THE NECESSARY STEPS TO IMPLEMENT THE PROVISIONS OF THIS RESOLUTION**

WHEREAS, the COVID-19 virus, better known as the novel Coronavirus, is a respiratory virus that has spread across the world and has created a global pandemic by devastating communities and the world economy, and

WHEREAS, to respond to this pandemic, the American Rescue Plan Act of 2021 (ARPA) was signed into law which established the federal Emergency Rental Assistance Program (ERA2), and provided funding to assist households that are unable to pay rent and utilities due to the COVID-19 pandemic, and

WHEREAS, California Assembly Bill No. 832 established the State of California's program for administering its share of ERA2 funds, the City of Modesto Program has been directly allocated \$60,751 to administer an Emergency Rental Assistance Program (ERA2), and

WHEREAS, these funds will be utilized in accordance with contract provisions, the American Rescue Plan Act of 2021, HCD Guidelines and guidance from the U.S. Department of the Treasury for administrative costs of the ERA2 program.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto Resolution that it hereby amends the Fiscal Year 2021-2022 Multi-Year Fund Budget,

amending the allocation of American Rescue Plan Act of 2021 funds from the Department of Housing and Community Development with appropriate revenue and expenditure allocations.

BE IT FURTHER RESOLVED that the City Manager, or his designee, is authorized to accept the State ERA2 funding received on November 23, 2021, in an amount of \$60,751.

BE IT FURTHER RESOLVED that the City Manager, or his designee, is authorized to carry out administrative actions or execute any agreements required for the City to carry out the purpose and intent 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 January, 2022, by Councilmember Wright, who moved its adoption, which motion being duly seconded by Councilmember Ricci, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Escutia-Braaton, Madrigal, Ricci,  
Wright, Zoslocki, Mayor Zwahlen

NOES: Councilmembers: None

ABSENT: Councilmembers: Kenoyer

ATTEST:   
DANA SANCHEZ, Interim City Clerk

(SEAL)

APPROVED AS TO FORM:

BY:   
JOSE M. SANCHEZ, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2022-009**

**RESOLUTION APPROVING A WILL SERVE LETTER AND OUTSIDE SERVICE AGREEMENT BETWEEN THE CITY OF MODESTO AND FRANCISCO AGUILAR AND MARIA R. AGUILSR, TRUSTEES OF THE FRANCISCO AND MARIA R. AGUILAR TRUST, TO CONNECT TO THE CITY OF MODESTO EXISTING SEWER SYSTEM FOR THE PROPERTY LOCATED AT 1009 CHICAGO AVENUE (APN: 030-018-015), AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO SIGN THE WILL SERVE LETTER AND EXECUTE THE OUTSIDE SERVICE AGREEMENT**

WHEREAS, Francisco Aguilar and Maria R. Aguilar Trustees of the Francisco and Maria R. Aguilar Trust located at 1009 Chicago Avenue which is located outside of Modesto City Limits and inside the City's Sphere of Influence, and

WHEREAS, the property located at 1009 Chicago Avenue, is not connected to City's sewer system and is requesting a sewer connection due to failing Septic Tank, and

WHEREAS, on November 25, 2014, City Council approved Resolution No. 2014-473 amending City Council Policy 5.002, and

WHEREAS, on December 9, 2014, City Council approved adoption of Ordinance No.3612-C.S. amending City of Modesto Municipal Code Section 11-1.05, and

WHEREAS, both of these amendments included language allowing the City Manager, upon the recommendation of the Director responsible for utility system planning to approve standard agreements of service for extension of sewer services into certain unincorporated areas without City Council approval, and

WHEREAS, the property located at 1009 Chicago Avenue is not located within one of those designated areas and therefore requires City Council approval prior to allowing the sewer connection, and

WHEREAS, City staff has completed an analysis and determined that it is reasonable for the City of Modesto to provide sewer service to this property, and

WHEREAS, consistent with adopted LAFCO policy 15, the extension of sewer service is proposed to remedy a health and safety concerns in an area with a failing Septic Tank, and

WHEREAS, the sewer connection fees shall be paid and associated permits will be obtained prior to connecting to the City sewer system, and

WHEREAS, the property owner has executed an Outside Service Agreement for sewer service with the City as required to receive sewer service outside the City limits.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the Will Serve Letter and Outside Service Agreement for sewer service for the property located at 1009 Chicago Avenue (APN: 030-018-015) in Modesto.

BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to approve the Will Serve Letter and execute the Outside Service Agreement for sewer service.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 11th day of January, 2022, by Councilmember Wright, who moved its adoption, which motion being duly seconded by Councilmember Ricci, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Escutia-Braaton, Madrigal, Ricci,  
Wright, Zoslocki, Mayor Zwahlen


NOES: Councilmembers: None

ABSENT: Councilmembers: Kenoyer

ATTEST:   
DANA SANCHEZ, Interim City Clerk

(SEAL)

APPROVED AS TO FORM:

BY:   
JOSE M. SANCHEZ, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2022-010**

**RESOLUTION APPROVING A MEMORANDUM OF UNDERSTANDING WITH STANISLAUS COUNCIL OF GOVERNMENTS FOR SUBALLOCATION OF REGIONAL EARLY ACTION PLANNING GRANT PROGRAM FUNDS; AND AUTHORIZING THE CITY MANAGER OR HIS DESIGNEE TO SIGN THE MEMORANDUM OF UNDERSTANDING**

WHEREAS, the Stanislaus Council of Governments (StanCOG) is the Metropolitan Planning Organization (MPO) for the Stanislaus Region, pursuant to State and Federal designation; and

WHEREAS, on February 27, 2020, the State of California Department of Housing and Community Development (HCD) released a Notice of Funding Availability (NOFA) for the Regional Early Action Planning Grant Program (REAP) to councils of governments and other regional entities with said funds to be released in three packages of funding; and

WHEREAS, on August 14, 2020, HCD approved an initial allocation of \$10,218,831 in REAP grant funding to the San Joaquin Valley MPOs; and

WHEREAS, StanCOG has calculated the City of Modesto's total suballocation of the San Joaquin Valley MPOs initial allocation to be \$161,956 of the City's grand total \$577,284 REAP suballocation; and

WHEREAS, StanCOG has prepared a Memorandum of Understanding (MOU) to document the process whereby the City of Modesto will be reimbursed for eligible grant-funded housing-related work on the comprehensive General Plan update project; and

WHEREAS, StanCOG and the City of Modesto will amend the MOU or enter into a subsequent MOU to address the City's remaining REAP funding suballocation; and

WHEREAS, the proposed MOU between City of Modesto and StanCOG to document the REAP Grant Program funding suballocation and payment-reimbursement process details is **Exhibit "A", attached** hereto and incorporated by reference.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves a Memorandum of Understanding with Stanislaus Council of Governments for suballocation of Regional Early Action Planning Grant Program funds.

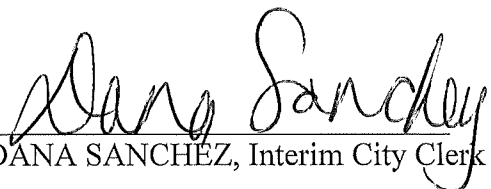
BE IT FURTHER RESOLVED, that the City Manager, or his designee is hereby authorized to sign the Memorandum of Understanding.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 11th day of January, 2022, by Councilmember Wright, who moved its adoption, which motion being duly seconded by Councilmember Ricci, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Escutia-Braaton, Madrigal, Ricci,  
Wright, Zoslocki, Mayor Zwahlen

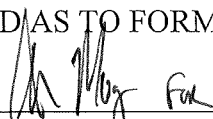
NOES: Councilmembers: None

ABSENT: Councilmembers: Kenoyer

ATTEST:   
DANA SANCHEZ, Interim City Clerk

(SEAL)

APPROVED AS TO FORM:

BY:   
JOSE M. SANCHEZ, City Attorney

**EXHIBIT "A"**  
MOU Between City of Modesto and StanCOG

**MEMORANDUM OF UNDERSTANDING**  
**between**  
**STANISLAUS COUNCIL OF GOVERNMENTS (StanCOG),**  
**and**  
**CITY OF MODESTO**  
**FOR**  
**SUBALLOCATION OF REGIONAL EARLY ACTION PLANNING (REAP) FUNDS**

This Memorandum of Understanding (“**MOU**”) is dated \_\_\_\_\_, 2022, for reference purposes, by and between the Stanislaus Council of Governments, a joint powers authority established under California Government Code section 6500 et seq., (hereinafter “**StanCOG**”) and the City of Modesto (hereinafter “**Sub-Recipient**”) for suballocation of Regional Early Action Planning (REAP) grant funds. StanCOG and the Sub-Recipient are individually referred to herein as “Party” and may be collectively referred to herein as “Parties”.

**RECITALS**

A. WHEREAS, the Stanislaus Council of Governments (StanCOG) is the Regional Transportation Planning Agency (RTPA) and Metropolitan Planning Organization (MPO) for the Stanislaus region, pursuant to State and Federal designation; and

B. WHEREAS, pursuant to California Health and Safety Code section 50515.02, the State of California Department of Housing and Community Development (“**HCD**”) made available \$125,000,000 in local government planning support grants to regional entities and working groups as outlined by the statute; and

C. WHEREAS, HCD released a Notice of Funding Availability (“**NOFA**”) for \$118,750,000 for the Regional Early Action Planning Grant Program (REAP) to councils of governments and other regional entities with said funds to be released in three packages of funding; and

D. WHEREAS, pursuant to section 50515.02 of the Health and Safety Code, a San Joaquin Valley Multi Agency Working Group was formed in accordance with subdivision (c), consisting of the Fresno Council of Governments, the Kern Council of Governments, the Kings County Association of Governments, the Madera County Transportation Commission, the Merced County Association of Governments, the San Joaquin Council of Governments, the Stanislaus Council of Governments, and the Tulare County Association of Governments,

representing the Counties of Fresno, Kern, Kings, Madera, Merced, San Joaquin, Stanislaus, and Tulare (the “**SJV Working Group**”); and

E. WHEREAS, HCD is authorized to provide up to \$18,975,000 of REAP grant funds to the members of the SJV Working Group; and

F. WHEREAS, on August 14, 2020, HCD approved an allocation of \$10,218,830.75 in grant funds (the “**Initial Grant**”) to the members of the SJV Working Group; and

G. WHEREAS, a portion of the Initial Grant is available to the members of the SJV Working Group and the majority of the REAP Funds will be allocated to the local jurisdictions to help comply with Regional Housing Needs Allocation (“**RHNA**”) numbers that are developed to update the housing element of the local jurisdictions as well as other planning activities that would increase housing production; and

H. WHEREAS, the Initial Grant will be distributed in three separate funding packages and StanCOG is expected to receive approximately Four Hundred Fifteen Thousand Dollars and 0/100 Cents (\$415,000) and One Million, Sixty Five Thousand Dollars and 0/100 Cents (\$1,065,000), as part of the first and third funding packages respectively, for a total of approximately One Million, Four Hundred Eighty Thousand Dollars and 0/100 Cents (\$1,480,000) to be distributed to the local agencies; and

I. WHEREAS, on March 17, 2021, the StanCOG Policy Board approved by Resolution 20-27, the Regional Early Action Planning (REAP) Suballocation Methodology of funding by percent of population adjusted for a minimum funding floor of Thirty-Five Thousand (\$35,000), effectively suballocating approximately One Million, Four Hundred Eighty Thousand, Ninety-Seven Dollars and 57/100 Cents (\$1,480,097.57) of the REAP grant funds (“**Grant Funds**”) to StanCOG’s local member agencies for funding their planning activities that will accelerate housing production and facilitate compliance in implementing the sixth cycle of RHNA; and

J. WHEREAS, the City of Modesto is to be suballocated One Hundred Sixty One Thousand, Nine Hundred Fifty-Five Dollars and 53/100 Cents (\$161,955.53) through the REAP Grant Funds as part of the first and third funding packages; and

K. WHEREAS, HCD will release the third funding package to the SJV Working Group when it has been demonstrated, to HCD’s satisfaction, with proper invoicing and tracking results, that the local agencies have conducted activities to advance housing-related planning activities and have properly spent funds of the first funding package; and

L. WHEREAS, the Parties will amend this MOU or enter into a subsequent MOU to address the third funding package released by HCD; and

M. WHEREAS, StanCOG and its participating local member agencies (sub-recipients) shall only use their funds to conduct housing-related planning activities that are eligible according to HCD's requirements, and will advance their housing element update in

compliance with the sixth cycle of RHNA; and

N.

O. WHEREAS, technical assistance for Sub-Recipients conducting their housing-related planning activities will be provided by StanCOG, or other members of the SJV Working Group through the Valleywide Consultant bench; and

P. WHEREAS, the Sub-Recipient's selected project manager, in coordination with StanCOG's selected project manager, will ensure the Scope of Work is performed by the Sub-Recipient; and

Q. WHEREAS, the conditions described in this MOU will begin on the Effective Date and shall be completed by June 30, 2023.

**NOW THEREFORE**, in consideration of the mutual promises, covenants, terms and condition hereinafter contained, the Parties hereto agree as follows:

## **AGREEMENT**

### 1. Recitals

The recitals above are hereby incorporated in this Memorandum of Understanding as if fully set forth herein.

### 2. Compliance with Laws:

Sub-Recipient must comply with all applicable Federal, State, local laws, codes, ordinances and regulations. Sub-Recipient must specifically comply with the provisions of California Health and Safety Code Sections 50515 *et seq.*, outlined by California's Department of Housing and Community Development 2020 Notice of Funding Availability (NOFA) for REAP. Further, Sub-Recipient will require the appropriate debarment certification form from all contractors and Sub-Recipient certifies that it will not knowingly enter into any transaction with a contractor, subcontractor, material supplier, or vendor who is debarred, suspended, declared ineligible, or voluntarily excluded from covered transactions by any Federal or State agency.

### 3. Scope of Work

Sub-Recipient shall conduct the scope of work described in **Exhibit "A", "Scope of Work."** Sub-Recipient will not be compensated for activities outside the Scope of Work outlined in Exhibit "A", unless otherwise mutually agreed upon in writing by the Parties.

### 4. Maximum Contract Amount

The amount to be paid to Sub-Recipient under this MOU will not exceed One Hundred Sixty One Thousand, Nine Hundred Fifty-Five Dollars and 53/100 Cents (\$161,955.53), which amount represents Sub-Recipient's allocation under HCD's first funding package, unless agreed upon in advance by the Parties pursuant to a written amendment signed by the authorized signer for each party. In no instance will StanCOG be liable for any payments or costs for work in excess of this amount, nor for any unauthorized or ineligible costs.

### Invoices and Progress Reports

A. Not less frequently than quarterly, Sub-Recipient will provide StanCOG with both a written report on the progress made on the Scope of Work (Exhibit “A”) and an invoice for reimbursement. Invoices shall, at a minimum, be for the periods ending March, June, September and December of each fiscal year. Invoices for work completed through June 30 of a fiscal year must be submitted by July 30. Sub-Recipient shall submit written invoices by e-mail to StanCOG at [finance@stancog.org](mailto:finance@stancog.org). Sub-Recipient shall also provide to StanCOG a copy of its annual progress report that is submitted to HCD annually in April. Sub-Recipient’s failure to comply with any of the reporting requirements in this MOU may impact the ability to receive future REAP Grant Funds.

B. Payments to Sub-Recipient hereunder will be made in arrears. Sub-Recipient shall be paid within thirty (30) days following the receipt and approval of each invoice by StanCOG. Sub-Recipient will submit a detailed and properly documented invoice on its letterhead for reimbursement which invoice will include the following: (i) a description of the work performed, (ii) name of Sub-Recipient and Consultant personnel performing the work; (iii) a detailed accounting of costs incurred, and (iii) evidence that Sub-Recipient has already incurred costs for the Project. Attached as Exhibit “B” is StanCOG’s matrix of required supporting documentation for Sub-Recipient’s invoices. Invoices for expenditures incurred prior to the Effective Date will not be reimbursed.

C. Sub-Recipient shall submit narrative reports indicating percentage of completion with each set of invoices to allow StanCOG’s Project Manager to determine if Sub-Recipient is performing to expectations, is on schedule, is within funding limitations, as well as to communicate interim findings, and to afford occasions for airing difficulties respecting special problems encountered so that remedies can be developed. Attached as Exhibit “C” is StanCOG’s Quarterly Reporting Form.

D. If the Sub-Recipient is seeking reimbursement for indirect costs, they must annually submit an Indirect Cost Allocation Plan (ICAP) or an Indirect Cost Rate Proposal (ICRP) to its cognizant agency for indirect costs in accordance with Title 2 Code of Federal Regulations Part 200 (2 CFR 200) Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards. The cognizant agency for indirect costs means the agency responsible for reviewing, negotiating, and approving indirect cost allocation plans and indirect cost proposals. The Sub-Recipient must include their estimated indirect cost rate in the project application and provide a copy of the acceptance letter from their cognizant agency for the approved ICAP or ICRP for the current fiscal year. Indirect costs may be sought for reimbursement only after the Sub-Recipient has received ICAP/ICRP approval from its cognizant agency.

E. Sub-Recipient will be notified within ten (10) business days following receipt of its invoice by StanCOG of any circumstances or data identified by StanCOG in Sub-Recipient’s invoice that would cause withholding of approval and subsequent payment. If StanCOG disputes any portion of a request for payment, StanCOG shall pay the undisputed portion of such request as herein provided and shall promptly notify Sub-Recipient of the amount in dispute and the reason therefore.

F. Sub-Recipient will require its Consultants pay any subconsultants for satisfactorily completed work no later than thirty (30) days of receipt of each payment from the

Sub-Recipient, unless a longer period is agreed to in writing.

G. Any costs for which the Sub-recipient receives reimbursement under this MOU that is determined by a subsequent audit or other review by either StanCOG, HCD or other State of California authorities to be ineligible or otherwise unallowable, are to be repaid by the Sub-Recipient within thirty (30) calendar days of the Sub-Recipient receiving notice of audit findings and penalties or related fees, as determined by HCD or other State authorities (Health and Safety Code section 50515.04(e)). Should the Sub-Recipient fail to reimburse unallowable costs to StanCOG within thirty (30) calendar days of demand, or within such other period as may be agreed between both parties hereto, StanCOG is authorized to withhold future payments due to the Sub-Recipient.

5. Term/Timeline

The term of this MOU shall begin on the “**Effective Date**” of this MOU which shall be the last date of execution by the parties hereto. All work identified in the Scope of Work must be completed by June 30, 2023, unless terminated earlier as provide herein. No extensions will be granted.

6. Allowable Uses of Grant Funds

A. StanCOG shall not award funds unless it is determined that the Grant Funds for the Sub-Recipient shall be expended in compliance with the 2020 Notice of Funding Availability (NOFA) for the REAP Grant Program pursuant to Division 31, Part 2, Chapter 3.1 of Health and Safety Code, Sections 50515 *et seq.*

B. Grant Funds shall only be used by Sub-Recipient for housing planning activities approved by StanCOG that are in accordance with the NOFA published by California Department of Housing and Community Development (HCD).

C. Grant Funds may not be used for administrative or staffing costs of persons employed by the Sub-Recipient for activities not related to the eligible housing planning activities, nor may these funds be used for consultants employed by Sub-Recipient for activities that are not related to the eligible housing planning activities.

D. Sub-Recipient shall use no more than three percent (3%) of its total Grant Funds or Two Thousand Five Hundred Dollars (\$2,500.00), whichever is greater, for administrative costs and purposes related to eligible activities. For purposes of this MOU, administrative costs are defined as: preparing invoices and supporting documentation; preparing quarterly progress

reports; and participating in project management meetings. Additional funds may be used from other sources solely contributed by the Sub-Recipient to support the Sub-Recipient's administration of the eligible housing planning activities.

7. Accounting, Audit, Retention and Inspection of Records

A. Sub-Recipient, its staff, contractors and subcontractors shall establish and maintain an accounting system and reports that properly accumulate incurred project costs by line. The accounting system shall conform to Generally Accepted Accounting Principles (GAAP), enable the determination of incurred costs at interim points of completion, and provide support for reimbursement payment voucher or invoices.

B. Sub-Recipient shall establish a separate ledger account for receipts and expenditure of the Grant Funds and maintain expenditure details in accordance with the Scope of Work, project Schedule and budget.

C. Sub-Recipient shall maintain documentation of its normal procurement policy and competitive bid process (including the use of sole source purchasing), and financial records of expenditures incurred during the course of conducting eligible housing planning activities in accordance with GAAP.

D. Sub-Recipient agrees that StanCOG, HCD and the State of California or their designated representative(s) shall have the right to review, obtain, copy and audit all books, records, accounts, documentation and any other materials, collectively "**Records**", pertaining to the performance of this MOU.

E. Sub-Recipient agrees to provide StanCOG or its designee, HCD, or any other State or Federal agency, with any relevant information requested related to the performance of this MOU and will permit StanCOG or its designees access to its premises, upon reasonable notice, during normal business hours, for the purpose of interviewing employees and inspecting and copying such Records for the purpose of determining compliance with any applicable Federal and State laws and regulations.

F. Sub-Recipient agrees to maintain Records for a period of three (3) years after final payment under the MOU or three (3) years from the conclusion or resolution of any and all audits or litigation relevant to this MOU and any amendments, whichever is later. If any litigation, claim, negotiation, audit, monitoring, inspection or other action has been started before the expiration of the three (3) years after final payment under this MOU, all records must be retained by the Sub-Recipient, its contractors and subcontractors until completion of the action and resolution of all issues which arise from it. Records related to any and all audits or litigation relevant to this Agreement shall be retained for five (5) years after the conclusion or resolution of

the matter. StanCOG and HCD shall have the right to audit Sub-Recipient Records and interview employees.

G. If requested by StanCOG upon expiration of this MOU, Sub-Recipient will deliver all Records relevant to the Scope of Work to be delivered to StanCOG as a depository.

8. Project Manager/Staffing

A. The Project Managers for the Parties are identified below. Sub-Recipient may not substitute its Project Manager without prior written agreement by StanCOG, which agreement will not be unreasonably withheld. With the exception of notice of termination sent pursuant to Section 13, any notice, report or other communication required by this MOU will be mailed by first-class mail or e-mailed with confirmation of receipt to the respective Project Manager at the addresses identified below.

B. During the term of this MOU, the representative project managers for StanCOG and Sub-Recipient will be:

**StanCOG**

Isael Ojeda  
Senior Planner

Stanislaus Council of Governments  
1111 I Street, Suite 308  
Modesto, CA 95354  
Telephone: (209) 525-4632  
Email: [iojeda@stancog.org](mailto:iojeda@stancog.org)

**Sub-Recipient**

Brad Wall, MPA  
Principal Planner

City of Modesto  
Community & Economic Development  
Department  
1010 Tenth Street, Suite 3300  
Modesto, CA 95353  
Telephone: (209) 577-5273

9. Subsequent MOUs

Sub-Recipient understands and agrees that subsequent MOUs may be necessary to facilitate the distribution of further grant funding from HCD under Division 31, Part 2, Chapter 3.1, section 50515 *et seq.* of the Health and Safety Code. The Sub-Recipient hereby commits to negotiate the terms and conditions of such subsequent MOUs in good faith, in order to achieve concurrence and ensure execution of same in a timely fashion.

10. Disputes

A. In the event of a dispute among the Parties concerning a question of fact arising under this MOU that is not disposed of by agreement, which involves a decision by HCD's Housing Policy Development Manager (or the Manager's designee) who may consider any written or verbal evidence submitted by StanCOG, the decisions of HCD shall be final and not subject to further appeal pursuant to Health and Safety Code Section 50515.04(g). StanCOG shall include in such submittal to HCD any written or verbal evidence submitted to StanCOG by

the Sub-Recipient as part of this process. Neither the pendency of a dispute nor its consideration by HCD will excuse the Parties from full and timely performance in accordance with the terms of this MOU.

B. For other disputes and except as otherwise provided in this MOU, if a dispute arises between the Parties to this MOU, the Parties hereto agree to use the following procedure to resolve such dispute, prior to pursuing other legal remedies:

- i. A meeting shall be held promptly between the Parties that will be attended by the Sub-Recipient's Project Manager and StanCOG's Project Manager as well as individuals with decision-making authority (to the extent reasonably possible), who will attempt in good faith to negotiate a resolution of the dispute.

C. If the Parties are unsuccessful in resolving the dispute under B.i., above, they may:

- ii. Agree to submit the matter to mediation, binding judicial reference, or a private adjudicator (if all Parties so agree); or
- iii. Initiate litigation following advance written notice to the other Party of not less than thirty (30) days.

D. If any Party should bring a legal action against the other to enforce the terms of this MOU, the prevailing Party shall be entitled to recover reasonable attorneys' fees and costs, as determined by a court of competent jurisdiction in said proceeding.

## 11. Termination

A. Either Party may terminate this MOU for any reason at any time upon thirty (30) days written notice. The notice for early termination may permit the Sub-Recipient or StanCOG to rectify any deficiency(ies) prior to the early termination date. The Sub-Recipient will submit any requested documents to StanCOG within twenty (20) days of the early termination notice.

B. If either party issues a notice of termination, StanCOG will reimburse Sub-Recipient for work actually performed up to the effective date of the notice of termination less any compensation to StanCOG for damages suffered as a result of Sub-Recipient's failure to comply with the terms of this MOU.

C. Sub-Recipient will have the right to terminate this MOU in the event StanCOG is unable to make required payments, including, without limitation, a failure of HCD to appropriate funds. In such event, Sub-Recipient will provide StanCOG with ten (10) days written notice of termination. StanCOG will make payment to Sub-Recipient through the date of termination.

12. Notices

A. Any notice(s) required pursuant to this MOU shall be made in writing by hand-delivery, facsimile, first-class mail (registered or certified, return receipt requested), overnight courier service, or by electronic mail if the Party to be provided notice has provided its email address to the other Party. Notices of changes or amendments to this MOU, disputes, or court action must be served pursuant to non-electronic means provided for in this section.

B. All notices shall be deemed given and effective on the earliest of: (a) the date of transmission if such notice or communication is delivered via facsimile or electronic mail prior to 5:00 p.m. PST on a business day; (b) the next business day if such notice or communication is delivered via facsimile or electronic mail later than 5:00 p.m. PST on a business day; (c) the third business day following the date of mailing if sent by U.S. mail, nationally recognized courier service; or (d) upon actual receipt by the party to whom such notice is personally given.

C. Notices may be provided at the following addresses below. Each Party reserves the right to change its address for purposes of notice by providing written notice to the other Party.

To StanCOG: Stanislaus Council of Governments  
1111 I Street, Suite 308  
Modesto, CA 95354  
Attention: Isael Ojeda  
Telephone: (209) 525-4600  
Facsimile: (209) 558-7833  
Email: [iojeda@stancog.org](mailto:iojeda@stancog.org)

To Sub-Recipient: City of Modesto  
1010 Tenth Street, Suite 3300  
Modesto, CA 95353  
Attention: Director of Community and Economic Development  
Telephone: (209) 577-5273

13. Amendments.

This MOU may be modified, amended, changed, added to, or subtracted from, by the mutual consent of the parties hereto, if such amendment or change is in written form and executed with the same formalities as this MOU and attached to the original MOU to maintain continuity.

14. Insurance

A. Sub-Recipient shall, at its own expense, procure and maintain in effect at all times

during this MOU, insurance coverage provided by a California admitted insurer licensed to transact business in California, as least as broad as hereinafter provided, including insurance coverage against claims for injuries to persons or damages to property which may arise from or in connection with the performance of the services set forth in Exhibit "A" of this MOU by the Sub-Recipient or Sub-Recipient's agents, representatives, employees, or subcontractors as follows:

i. General Liability.

Comprehensive general liability insurance covering bodily injury, personal injury, property damage, products and completed operations with limits of no less than ONE MILLION DOLLARS (\$1,000,000). If Commercial General Liability Insurance or other form with a general aggregate limit is used, either the general aggregate limit shall apply separately to any act by Sub-Recipient under this MOU or the general aggregate limit shall be twice the required occurrence limit.

ii. Automobile Liability Insurance.

If the Sub-Recipient or the Sub-Recipient's officers, employees, agents, representatives or subcontractors utilize a motor vehicle in performing any of the work or services under this MOU, owned/non-owned automobile liability insurance providing combined single limits covering bodily injury damage with limits of no less than ONE MILLION DOLLARS (\$1,000,000) per incident or occurrence, and providing property damage liability of no less than TWO HUNDRED FIFTY THOUSAND DOLLARS (\$250,000) per incident or occurrence.

iii. Workers' Compensation Insurance.

Workers' Compensation Insurance as required by the California Labor Code. In signing this MOU, the Sub-Recipient certifies under section 1861 of the California Labor Code that Sub-Recipient is aware of the provisions of section 3700 of the Labor Code which requires every employer to be insured against liability for workers' compensation or to undertake self-insurance in accordance with the provisions of that code, and that the Sub-Recipient will comply with such provisions before commencing the performance of the work of this MOU, as necessary.

iv. Professional Errors and Omissions Insurance with coverage limits of not less than One Million Dollars (\$1,000,000.00).

B. Deductibles, Self-Insured Retentions, Named Insured. Any deductibles, self-insured retentions, or name insureds must be declared in writing and approved by StanCOG.

C. Waiver of Subrogation, Additional Insured. The insurance policies are to contain, or be endorsed to contain, the following provisions:

i. General Liability and Automobile Liability Coverages.

Endorsement providing that the Sub-Recipient's insurance shall waive all rights of subrogation against StanCOG's insurers and StanCOG; or the Sub-Recipients' insurance shall list StanCOG as additional insureds under the insurance policy.

ii. Worker's Compensation Coverages.

Endorsements providing that the Sub-Recipient's insurance shall waive all rights of subrogation against StanCOG's insurers and StanCOG.

D. Other Insurance provisions. The insurance policies are to contain, or be endorsed to contain, the following provisions:

i. General Liability and Automobile Liability Coverages.

Endorsements providing that such insurance is the primary insurance and no insurance of StanCOG will be called upon to contribute to a loss.

The Sub-Recipient's insurance shall apply separately to each insured against whom claim is made or suit is brought, except with respect to the limits of the insurer's liability.

ii. All Coverage.

Each insurance policy required by this paragraph shall not be altered, suspended, voided, or canceled by either party, or reduced in coverage or in limits except after thirty (30) calendar days' prior written notice by certified mail, return receipt requested, has been given to StanCOG.

Any failure of Sub-Recipient to comply with reporting provisions of the policies shall not affect coverage provided to StanCOG or StanCOG's board members, officers, employees, or volunteers.

E. Verification of Coverage. Prior to performing any term or condition of the MOU, Sub-Recipient shall furnish StanCOG with evidence of insurance effecting coverage required by this section.

F. Subcontractors. All insurance coverage for subcontractors shall be subject to all of the insurance and indemnity requirements stated herein.

15. Indemnification

Except for the active negligence or willful misconduct of StanCOG and any of its directors, officers, agents, employees, assigns, and successors in interest, the Sub-Recipient undertakes and agrees to defend, indemnify, and hold harmless StanCOG and any of its directors, officers, agents, employees, assigns, and successors in interest from and against all suits and causes of action, claims, losses, demands and expenses, including, but not limited to, attorney's fees and cost of litigation,

damage or liability of any nature whatsoever, for death or injury to any person, including StanCOG's employees and agents, or damage or destruction of any property of either party hereto or of third parties, arising in any manner by reason of the acts, errors or omissions or violations of law by the Sub-Recipient, employees and agents in connection with its activities in pursuing the Project or under this MOU. The Sub-Recipient further agrees to require its Consultant(s) to provide indemnification for StanCOG to the same extent as the Sub-Recipient, in the contract(s) between the Sub-Recipient and its Consultant for work related to this MOU.

16. Independent Contractor, No Joint Venture

The Sub-Recipient and its Consultant(s), officers, employees and agents shall be independent contractors in the performance of this MOU, and not officers, employees, contractors or agents of StanCOG.

17. Assignment

Neither Party shall assign this MOU, or any part thereof, without the written consent of each Party to this MOU, which consent will not be unreasonable withheld. Any assignment without such written consent shall be void and unenforceable.

18. Successors

This MOU shall bind and benefit the parties hereto and their heirs, successors and permitted assigns.

19. Entire Agreement

This MOU contains the entire agreement of the parties and no representations, inducements, promises, or agreements otherwise between the parties not embodied herein or incorporated herein by reference shall be of any force or effect. Further, no term or provision hereof may be changed, waived, discharged or terminated unless the same is in writing executed by the parties. Sub-Recipient and StanCOG represent that in entering this MOU, they have not relied on any previous representations, inducements, or understandings of any kind or nature.

20. Severability

If any portion of this MOU or application thereof to any person or circumstance shall be declared invalid by a court of competent jurisdiction or if it is found in contravention of any Federal, State or local statutes, ordinance, or regulations, the remaining provisions of this MOU or application thereof shall not be invalidated thereby and shall remain in full force and effect to the extent that the provisions of this MOU are severable.

21. Governing Law

All questions pertaining to the validity and interpretation of this MOU shall be determined in accordance with the laws of the State of California applicable to agreements made and to be performed within the State. Any dispute not resolved by informal means between the parties to this MOU may be adjudicated in a court of law under the laws of the State of California.

22. Waiver of Default

Waiver of any default by either party to this MOU shall not be deemed a waiver of any subsequent default. Waiver or breach of any provision of this MOU shall not be deemed to be a waiver of any other or subsequent breach and shall not be construed to be a modification of the terms of this MOU unless modified pursuant to the terms of this MOU.

23. Counterparts and Electronic Signatures

A. This MOU may be executed in one or more counterparts, each of which shall be deemed an original and all of which taken together shall constitute one and the same instrument.

B. Each Party agrees that this MOU and any other documents to be delivered in connection herewith may be electronically signed, and that any electronic signatures appearing on this MOU or such other documents are the same as handwritten signatures for purposes of validity, enforceability and admissibility.

24. Authority

The Sub-Recipient warrants and certifies that it possesses the legal authority to execute this MOU and to undertake administration of the proposed Project, and that a resolution, motion, or similar action has been fully adopted or passed, as an official act of the Sub-Recipient's governing body.

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2022-011**

**RESOLUTION AMENDING FISCAL YEAR 2021-22 NON-CAPITAL PROJECT 100838 – MODESTO GENERAL PLAN UPDATE IN THE AMOUNT OF \$161,956 TO RECOGNIZE THE REGIONAL EARLY ACTION PLANNING (REAP) GRANT AND FUND CERTAIN HOUSING-RELATED WORK ASSOCIATED WITH THE COMPREHENSIVE GENERAL PLAN UPDATE; AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO IMPLEMENT THE PROVISIONS OF THIS RESOLUTION**

WHEREAS, the State of California Department of Housing and Community Development issued a Notice of Funding Availability for the Regional Early Action Planning (REAP) Grant Program on February 27, 2020; and

WHEREAS, the total REAP funding amount to be sub allocated to Modesto is \$577,283.67; and

WHEREAS, the initial grant award is to be sub allocated by Stanislaus Council of Governments (StanCOG) in a series of funding packages and the first and third of three funding packages are the subject of the current Memorandum of Understanding; and

WHEREAS, the total amount to be sub allocated to Modesto in these two funding packages is \$161,955.53 for certain housing-related work associated with the comprehensive General Plan Update; and

WHEREAS, the Fiscal Year 2021-22 Non-Capital Project 100838 – Modesto General Plan Update Budget must be increased by \$161,956 to recognize grant revenue and increase expenditures.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the amendment of the Fiscal Year 2021-22 Non-Capital project Budget for Project 100858 – Modesto General Plan Update in the amount of \$161,956 to

recognize the Regional Early Action Planning (REAP) grant and fund certain housing-related work associated with the comprehensive General Plan update.

BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to implement the provisions of this resolution.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 11th day of January, 2022, by Councilmember Wright, who moved its adoption, which motion being duly seconded by Councilmember Ricci, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Escutia-Braaton, Madrigal, Ricci,  
Wright, Zoslocki, Mayor Zwahlen

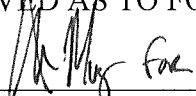
NOES: Councilmembers: None

ABSENT: Councilmembers: Kenoyer

ATTEST:   
DANA SANCHEZ, Interim City Clerk

(SEAL)

APPROVED AS TO FORM:

BY:   
\_\_\_\_\_  
JOSE M. SANCHEZ, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2022-012**

**RESOLUTION ACCEPTING AN ACTUARIAL VALUATION REPORT OF  
OTHER POST-EMPLOYMENT BENEFITS (OPEB) AS OF JUNE 30, 2020  
PURSUANT TO UPDATED FINANCIAL REPORTING AND ACCOUNTING  
REQUIREMENTS FROM THE GOVERNMENTAL ACCOUNTING  
STANDARDS BOARD (GASB) STATEMENTS 74 AND 75**

WHEREAS, the purpose of this report is to update the City Council on the Other Post-Employment Benefits (OPEB) liability valuation as of June 30, 2020, and

WHEREAS, this valuation follows the Governmental Accounting Standards Board (GASB) Standard 75 which determine the City's financial reporting requirements. Included in this report is the funding status of the City's liability which represents the City's current obligation to provide retiree medical benefits, and

WHEREAS, on February 19, 2021, the City solicited informal proposals to perform the actuarial analysis and report on the OPEB liability; Based on the responses received, the City selected MacLeod Watts based on their level of experience, references and their presentation of their actuarial report, and

WHEREAS, on April 22, 2021, the City entered into an agreement with MacLeod Watts to prepare an actuarial analysis and report on OPEB in accordance to the requirements outlined under GASB 75, and

WHEREAS, based upon the 2020 valuation report, the City's total OPEB (unfunded) liability was reported in the amount of \$30.4 million, in comparison to the City's June 30, 2019 valuation report of \$26.5 million, and

WHEREAS, OPEB actuarial valuations are used by City staff for budget forecasting and funding policy development, and by the Finance Department for financial

reporting for the City's Annual Comprehensive Financial Report (ACFR); the City currently funds the OPEB retiree medical benefits on a pay-as-you-go basis.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby accepts the actuarial valuation report of other post-employment benefits (OPEB) as of June 30, 2020 prepared by MacLeod Watts, LLC which is incorporated by reference herein.


The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 11th day of January, 2022, by Councilmember Wright, who moved its adoption, which motion being duly seconded by Councilmember Ricci, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Escutia-Braaton, Madrigal, Ricci, Wright, Zoslocki, Mayor Zwahlen

NOES: Councilmembers: None

ABSENT: Councilmembers: Kenoyer

ATTEST:

  
DANA SANCHEZ, Interim City Clerk

(SEAL)

APPROVED AS TO FORM:

BY:

  
JOSE M. SANCHEZ, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2022-013**

**RESOLUTION APPROVING AN AMENDMENT TO THE PURCHASING AGREEMENTS WITH AFFINITECH, CHANHASSEN, MN, BY INCREASING THE ANNUAL ESTIMATED AMOUNT BY \$150,000 FOR A NEW REVISED TOTAL OF \$250,000; AND DECREASING THE ANNUAL ESTIMATED AMOUNT WITH EYEP SOLUTIONS, CAMERON PARK, CA, BY \$50,000 FOR A NEW REVISED TOTAL OF \$75,000; AND DECREASING THE ANNUAL ESTIMATED AMOUNT WITH INTELLISITE, CERES, CA BY \$100,000 FOR A NEW REVISED TOTAL OF \$25,000 FOR CAMERAS, LPRS, ACCESSORIES AND CAMERA LICENSING FOR A TOTAL ESTIMATED ANNUAL COST OF \$350,000 AND A TOTAL COMBINED COST NOT TO EXCEED \$1,750,000 OVER FIVE YEARS; AND AUTHORIZING THE DIRECTOR OF FINANCE TO ADJUST AGREEMENT TOTALS BETWEEN VENDORS BASED ON CONTRACTOR'S AVAILABILITY AND DEPARTMENT'S NEEDS, ENSURING THE COMBINED TOTAL COST DOES NOT CHANGE AND AUTHORIZING THE DIRECTOR OF FINANCE, OR HER DESIGNEE, TO EXECUTE THE AMENDMENTS, AND AUTHORIZING THE DIRECTOR OF FINANCE, OR HER DESIGNEE, TO EXECUTE THE AMENDMENTS**

WHEREAS, the Modesto Police Department (MPD) is always expanding its camera program and is now coordinating with the other City departments to standardize equipment and licensing for each year of maintenance, repair, replacement and monitoring of camera feeds; and

WHEREAS, MPD has requested to enter into multi-year agreements to remain in compliance with Municipal Code Section 8-3.203 which requires all purchases that meet or exceed \$50,000 for material, equipment, or contractual services to be formally bid; and

WHEREAS, on September 7, 2021 under Resolution 2021-343, Council approved the purchase agreements for cameras, license plate readers (LPRs), accessories and camera licensing to Affinitech, Chanhassen, MN by utilizing the competitive bid process with the State of California, General Services Acquisition (GSA); to EyeP Solutions, Cameron Park, CA, by utilizing the competitive bid process with the State of California, California Multiple Award Schedule (CMAS); and to Intellisite, Ceres, CA, by utilizing

the competitive bid process with the State of California, CMAS for a one (1) year agreement with four (4) one-year extension options for an annual estimated cost of \$100,000 for Affinitech, \$125,000 to EyeP Solutions and \$125,000 to Intellisite, for a total annual estimated cost of \$350,000 and a total combined cost not to exceed \$1,750,000 over five (5) years; and

WHEREAS, the original Resolution did not include language to allow the Director of Finance to adjust agreement totals between vendors based on contractor's availability and department's needs, ensuring the combined total cost does not change and authorizing the Director of Finance, or her designee, to execute the agreements; and

WHEREAS, technology advances are ever changing and technology companies are highly competitive, allowing the Director of Finance the authority to move funds will ensure that the department has the most up-to-date technology and equipment from the most competitive vendor that has an agreement with the City.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves an amendment to the Purchasing Agreements with Affinitech, Chanhassen, MN, by increasing the annual estimated amount by \$150,000 for a new revised total of \$250,000; and decreasing the annual estimated amount with EyeP Solutions, Cameron Park, CA, by \$50,000 for a new revised total of \$75,000; and decreasing the annual estimated amount with Intellisite, Ceres, CA by \$100,000 for a new revised total of \$25,000 for cameras, LPRs, accessories and camera licensing for a total estimated annual cost of \$350,000 and a total combined cost not to exceed \$1,750,000 over five years.

BE IT FURTHER RESOLVED, authorizing the Director of Finance to adjust agreement totals between vendors based on contractor's availability and department's needs, ensuring the combined total cost does not change.

BE IT FURTHER RESOLVED, that the Director of Finance, or her designee, is hereby authorized to execute the amendments.

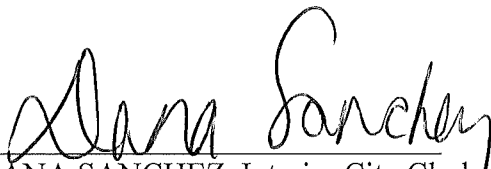
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 11th day of January, 2022, by Councilmember Wright, who moved its adoption, which motion being duly seconded by Councilmember Zoslocki, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Escutia-Braaton, Madrigal, Ricci,  
Wright, Zoslocki, Mayor Zwahlen

NOES: Councilmembers: None

ABSENT: Councilmembers: Kenoyer

ATTEST:

  
DANA SANCHEZ, Interim City Clerk

(SEAL)

APPROVED AS TO FORM:

BY:

  
JOSE M. SANCHEZ, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2022-014**

**RESOLUTION APPROVING THE AWARD OF BID FOR THE PURCHASE OF TWO (2) PASSENGER VANS TO NAPA FORD, NAPA, CA, FOR A TOTAL AMOUNT NOT TO EXCEED \$95,206 AND AUTHORIZING THE PURCHASING MANAGER, OR HER DESIGNEE, TO EXECUTE THE PURCHASE ORDER**

WHEREAS, on May 4, 2021, City Council approved Resolution 2021-165 for Two (2) Half-Ton Pickup Trucks to Towne Ford, Redwood City, CA for the Homeless Outreach Program for MPD; and

WHEREAS, prior to the trucks being delivered the MPD requested to change the specification from pickup trucks to passenger vans based on the need of the department; and

WHEREAS, the Fleet Services Division will relocate the half-ton trucks that were ordered to another division requiring a replacement once the passenger vans have been delivered; and

WHEREAS, Modesto Municipal Code Section 8-3.203 requires all purchases, which meet or exceed \$50,000 for material, equipment or contractual services to be formally bid; and

WHEREAS, on August 27, 2021 the Purchasing Division issued RFB 2021-71 for Two (2) Passenger Vans on the City's website under commodity codes 06590- Van Truck Bodies and 07092 – Vans, Cargo; and

WHEREAS, eleven companies chose to download the RFB document, one (1) vendor chose to submit a bid, there was no local bid received; and

WHEREAS, on September 21, 2021 bids were formally opened in the City Clerk's office and Napa Ford, Napa, CA, was the only responsive and responsible bidder; and

WHEREAS, based on providing the only responsive and responsible bid which conforms to the Modesto Municipal Code, Section 8-3.203 City staff recommends the award of bid for two (2) passenger vans to Napa Ford, Napa, CA.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the purchase of two (2) passenger vans to Napa Ford, Napa, CA for a total amount not to exceed \$95,206.


BE IT FURTHER RESOLVED, that the Purchasing Manager, or her designee, is hereby authorized to execute the purchase order.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 11th day of January, 2022, by Councilmember Wright, who moved its adoption, which motion being duly seconded by Councilmember Ricci, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Escutia-Braaton, Madrigal, Ricci,  
Wright, Zoslocki, Mayor Zwahlen

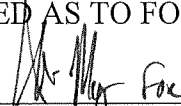
NOES: Councilmembers: None

ABSENT: Councilmembers: Kenoyer

ATTEST   
DANA SANCHEZ, Interim City Clerk

(SEAL)

APPROVED AS TO FORM:

BY:   
JOSE M. SANCHEZ, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2022-015**

**RESOLUTION APPROVING THE AWARD OF BID FOR THE PURCHASE OF SIX (6) FORD POLICE INTERCEPTORS TO TRACY FORD, TRACY, CA FOR A TOTAL AMOUNT NOT TO EXCEED \$241,425, AND AUTHORIZING THE PURCHASING MANAGER, OR HER DESIGNEE, TO EXECUTE THE PURCHASE ORDER**

WHEREAS, these vehicles are used in daily law enforcement activities city wide for the Modesto Police Department; and

WHEREAS, Modesto Municipal Code Section 8-3.203 requires all purchases, which meet or exceed \$50,000 for material, equipment or contractual services to be formally bid; and

WHEREAS, on September 28, 2021, the Purchasing Division issued RFB 2122-22 for Six (6) Ford Police Interceptors on the City's website under commodity codes 07000- Automotive Vehicles; and

WHEREAS, eleven companies chose to download the RFB document, four (4) vendor chose to submit a bid, there was no local bid received; and

WHEREAS, on October 16, 2021 bids were formally opened in the City Clerk's office and Tracy Ford, Tracy, CA, was the only responsive and responsible bidder; and

WHEREAS, based on providing the only responsive and responsible bid which conforms to the Modesto Municipal Code, Section 8-3.203 City staff recommends the award of bid for six (6) Ford Police Interceptors to Tracy Ford, Tracy, CA.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the purchase of six (6) Ford Police Interceptors to Tracy Ford, Tracy, CA for a total amount not to exceed \$241,425.

BE IT FURTHER RESOLVED, that the Purchasing Manager, or her designee, is hereby authorized to execute the purchase order.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 11th day of January, 2022, by Councilmember Wright, who moved its adoption, which motion being duly seconded by Councilmember Ricci, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Escutia-Braaton, Madrigal, Ricci, Wright, Zoslocki, Mayor Zwahlen

NOES: Councilmembers: None

ABSENT: Councilmembers: Kenoyer

ATTEST:   
DANA SANCHEZ, Interim City Clerk

(SEAL)

APPROVED AS TO FORM:

BY:   
JOSE M. SANCHEZ, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2022-016**

**RESOLUTION APPROVING THE AWARD OF BID FOR THE PURCHASE OF FOUR (4) FORD RESPONDERS TO NAPA FORD, NAPA, CA FOR A TOTAL AMOUNT NOT TO EXCEED \$166,564, AND AUTHORIZING THE PURCHASING MANAGER, OR HER DESIGNEE, TO EXECUTE THE PURCHASE ORDER**

WHEREAS, these vehicles are used in daily law enforcement activities city wide for the Modesto Police Department; and

WHEREAS, Modesto Municipal Code Section 8-3.203 requires all purchases, which meet or exceed \$50,000 for material, equipment or contractual services to be formally bid; and

WHEREAS, on October 26, 2021, the Purchasing Division issued RFB 2122-30 for four (4) Ford Police Responders on the City's website under commodity code - 07048-Trucks (One-ton capacity and less); and

WHEREAS, thirteen companies chose to download the RFB document, four (4) vendor chose to submit a bid, there was no local bid received; and

WHEREAS, on November 23, 2021 bids were formally opened in the City Clerk's office and Napa Ford, Napa, CA, was the only responsive and responsible bidder; and

WHEREAS, based on providing the only responsive and responsible bid which conforms to the Modesto Municipal Code, Section 8-3.203 City staff recommends the award of bid for four (4) Ford Police Responders to Napa Ford, Napa, CA.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the purchase of four (4) Ford Responders to Napa Ford, Napa, CA for a total amount not to exceed \$166,564.

BE IT FURTHER RESOLVED, that the Purchasing Manager, or her designee, is hereby authorized to execute the purchase order.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 11th day of January, 2022, by Councilmember Wright, who moved its adoption, which motion being duly seconded by Councilmember Ricci, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Escutia-Braaton, Madrigal, Ricci,  
Wright, Zoslocki, Mayor Zwahlen

NOES: Councilmembers: None

ABSENT: Councilmembers: Kenoyer

ATTEST:   
DANA SANCHEZ, Interim City Clerk

(SEAL)

APPROVED AS TO FORM:

BY:   
JOSE M. SANCHEZ, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2022-017**

**RESOLUTION AMENDING THE POSITION ALLOCATION FOR FISCAL  
YEAR 2021-22 AS ADOPTED IN THE OPERATING BUDGET**

WHEREAS, a Position Allocation for the City of Modesto was adopted by Modesto City Council on June 23, 2021, as part of the Annual Budget of the City of Modesto for Fiscal Year 2021-22, and

WHEREAS, classification studies are conducted to ensure that a classification system is equitable and consistent within an organization and that positions are correctly classified, and

WHEREAS, per Personnel Administrative Order 2.2-87-12, a classification study may be conducted in response to a reclassification request, to develop/revise a classification specification, or to assist in a reorganization, and

WHEREAS, classification studies were conducted by Human Resources to determine appropriate classifications, and

WHEREAS, position changes will be effective the first day of the pay period upon adoption, unless otherwise noted.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves amending the Position Allocation and the Fiscal Year 2021-22 Operating Budget for various departments as follows:

1. Reallocate and transfer one (1) Senior Software Analyst in the Business Applications/Development Services Division (17510) to one (1) Senior Systems Technician in the Network/Data Center Division (17710) in the Information Technology Department.

2. Unfreeze one (1) Police Captain in the Field Operations Division (19320) and transfer to the Records and Support Division (19420) in the Modesto Police Department.
3. Unfreeze one (1) Police Sergeant in the Field Operations Division (19320) in the Modesto Police Department.
4. Unfreeze three (3) Police Community Services Officer I/II in the Field Operations Division (19320) in the Modesto Police Department.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 11th day of January, 2022, by Councilmember Wright, who moved its adoption, which motion being duly seconded by Councilmember Ricci, was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmembers:	Escutia-Braaton, Madrigal, Ricci, Wright, Zoslocki, Mayor Zwahlen
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	Kenoyer

ATTEST:   
 DANA SANCHEZ, Interim City Clerk

(SEAL)

APPROVED AS TO FORM:

BY:   
 \_\_\_\_\_  
 JOSE M. SANCHEZ, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2022-018**

**RESOLUTION AMENDING THE FISCAL YEAR 2021-22 OPERATING BUDGET IN THE AMOUNT OF \$357,525 TO FUND THE UNFREEZING OF ONE (1) CAPTAIN, ONE (1) SERGEANT, AND THREE (3) COMMUNITY SERVICE OFFICERS IN THE GENERAL FUND FIELD OPERATIONS COST CENTER (0100-19320)**

WHEREAS, savings from the SR911 and SASA will have a projected savings of \$441,130 in fiscal year 2021-22 and this savings will be used to unfreeze one (1) Captain, one (1) Sergeant, and three (3) Community Service Officers in the General Fund Field Operations cost center (0100-19320) originally frozen as part of the fiscal year 2021-22 adopted budget.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Council hereby approves amending the fiscal year 2021-22 operating budget in the amount of \$357,525 to move savings from Appropriation Unit C in the Police Department's General Fund to the Police Department's Appropriation Unit A also in the General Fund to cover the cost of the unfrozen positions for the remainder of the fiscal year.

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 11th day of January, 2022, by Councilmember Wright, who moved its adoption, which motion being duly seconded by Councilmember Ricci, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Escutia-Braaton, Madrigal, Ricci,  
Wright, Zoslocki, Mayor Zwahlen

NOES: Councilmembers: None

ABSENT: Councilmembers: Kenoyer

ATTEST:   
DANA SANCHEZ, Interim City Clerk

(SEAL)

APPROVED AS TO FORM:

BY:   
JOSE M. SANCHEZ, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2022-019**

**RESOLUTION APPROVING THE PLANS AND SPECIFICATIONS FOR THE RALSTON TOWER PARK PROJECT, ACCEPTING THE BID AND AWARDING A CONTRACT TO TAYLOR BACKHOE SERVICE, INC. DBA TBS CONTRACTORS OF MERCED, CA IN THE AMOUNT OF \$897,100 AND AUTHORIZING THE DIRECTOR OF UTILITIES TO APPROVE CHANGE ORDERS UP TO THE CUMULATIVE AMOUNT OF \$89,710 (10% OF THE ORIGINAL CONTRACT PRICE) IF NEEDED FOR A TOTAL AMOUNT NOT TO EXCEED \$ 986,810 AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE TO EXECUTE THE AGREEMENT**

WHEREAS, on March 22, 2016, by Resolution No. 2016-102, Council awarded the contract to complete the professional design services for the Ralston Tower Park Project to O'Dell Engineering, Inc, and

WHEREAS, O'Dell Engineering, Inc. completed the construction documentation and professional design in fall of 2021, and

WHEREAS, the City Manager authorized the Purchasing Manager to issue formal Request for Bids (RFB) for the construction of the Ralston Tower Park Project, and

WHEREAS, on November 16, 2021, the Purchasing Division issued RFB 2022-15 for the construction of Ralston Tower Park, and

WHEREAS, on December 14, 2021, bids were formally opened by the City Clerk and one vendor chose to respond, TBS Contractors, who is not a local vendor, and

WHEREAS, based on providing the only responsive and responsible bid, staff recommends the award of bid to TBS Contractors, Merced, CA, and

WHEREAS, Modesto Municipal Code Section 8-3.203 generally requires all purchases, which meet or exceed \$50,000 for material, equipment or contractual services, to follow the formal bid procedures.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto approving the plans and specifications for the Ralston Tower Park Project, accepting the bid and awarding a contract to Taylor Backhoe Service, Inc. DBA TBS Contractors of Merced, CA in the amount of \$897,100 and authorizing the Director of Utilities to approve change orders up to the cumulative amount of \$89,710 (10% of the original contract price) if needed for a total amount not to exceed \$ 986,810.


BE IT FURTHER RESOLVED that the City Manager, or his designee, is authorized to execute the agreement, in a form approved by the City Attorney.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 11th day of January, 2022, by Councilmember Wright, who moved its adoption, which motion being duly seconded by Councilmember Ricci, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Escutia-Braaton, Madrigal, Ricci,  
Wright, Zoslocki, Mayor Zwahlen

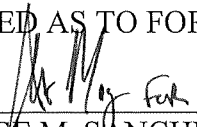
NOES: Councilmembers: None

ABSENT: Councilmembers: Kenoyer

ATTEST:   
DANA SANCHEZ, Interim City Clerk

(SEAL)

APPROVED AS TO FORM:

BY:   
JOSE M. SANCHEZ, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2022-020**

**RESOLUTION ACCEPTING GRANT AWARD IN THE AMOUNT OF \$550,000  
FROM CALIFORNIA STATE PARKS, LAND AND WATER CONSERVATION  
FUND**

WHEREAS, the Congress under the Land and Conservation Water Act Fund of 1965, 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 California Department of Parks and Recreation is responsible for administration of the program in the State, setting up necessary rules and procedures governing applications by local agencies under the program, and

WHEREAS, January 23, 2018, by Resolution 2018-30, Council approved the submittal of a grant application to the Land and Water Conservation Fund Program in the amount of \$550,000 and authorized the City Manager to execute all grant agreements, and

WHEREAS, on September 29, 2021, the State of California Parks and Recreation Department notified staff that the Ralston Tower Park project was recommended for funding through the Land and Water Conservation Fund Program in the amount of \$550,000 (LWCF Project # LW-50-028).

NOW, THEREFORE, BE IT RESOLVED, by the Council of the City of Modesto that it accepts the grant award in the amount of \$550,000 from California State Parks, Land and Water Conservation Fund.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 11th day of January, 2022, by Councilmember Wright, who moved its adoption, which motion being duly seconded by Councilmember Ricci, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Escutia-Braaton, Madrigal, Ricci,  
Wright, Zoslocki, Mayor Zwahlen

NOES: Councilmembers: None

ABSENT: Councilmembers: Kenoyer

ATTEST:   
DANA SANCHEZ, Interim City Clerk

(SEAL)

APPROVED AS TO FORM:

BY:   
JOSE M. SANCHEZ, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2022-021**

**RESOLUTION AMENDING THE FISCAL YEAR 2021/22 CAPITAL IMPROVEMENT PROGRAM (CIP) BUDGET, PROJECT 100866 IN THE AMOUNT OF \$550,000 TO RECOGNIZE THE LAND AND WATER CONSERVATION FUND GRANT AND FUND THE SENIOR PLAYGROUND 2014 PROJECT CONSTRUCTION; AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO IMPLEMENT THE PROVISIONS OF THIS RESOLUTION**

WHEREAS, certain budgetary transactions are necessary in order to fund the renovation of Ralston Tower Park, and

WHEREAS, the non-capital project #100866 (Senior Playground 2014) budget must be amended as shown in **Attachment A**, which is incorporated by reference herein.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby amends the Fiscal Year 2021/22 Capital Improvement Program (CIP) Budget, Project 100866 in the amount of \$550,000 to recognize the Land and Water Conservation Fund grant and fund the Senior Playground 2014 project construction as outlined in **Attachment A**, attached hereto.

BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to implement the provisions of this resolution.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 11th day of January, 2022, by Councilmember Wright, who moved its adoption, which motion being duly seconded by Councilmember Ricci, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Escutia-Braaton, Madrigal, Ricci,  
Wright, Zoslocki, Mayor Zwahlen

NOES: Councilmembers: None

ABSENT: Councilmembers: Kenoyer

ATTEST:   
DANA SANCHEZ, Interim City Clerk

(SEAL)

APPROVED AS TO FORM:

BY:   
JOSE M. SANCHEZ, City Attorney

## Exhibit A

### Budget Adjustment for Capital Project 100866 (Senior Playground 2014)

**Fund 3170 – Capital Grants - HUD CIP Projects:**

**Expense:**

**To:**

Task	Starting Amount	Increase/ (Decrease)	Ending Total
Construction (CON)	\$600,000	\$357,105	\$957,105
Construction Admin (CA)	\$0	\$89,710	\$89,710
Contingency (CTGY)	\$10,000	\$61,800	\$71,800
Engineering/Design/Administration (EDA)	\$40,000	\$41,385	\$81,385
<b>Total</b>	<b>\$650,000</b>	<b>\$550,000</b>	<b>\$1,200,000</b>

**Revenue:**

**To:**

Account	Starting Amount	Increase/ (Decrease)	Ending Total
3170-39999-61130-100866-00000	\$650,000	\$0	\$650,000
3170-39999-42165-100866-00000	\$0	\$550,000	\$550,000
<b>Total</b>	<b>\$650,000</b>	<b>\$550,000</b>	<b>\$1,200,000</b>

**Total Change in Revenues and Expenses:    \$550,000**

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2022-022**

**RESOLUTION APPROVING THE COMPETITIVE BIDDING PROCESS FROM OMNIA, CHARLOTTE, NC WITH PLAYCORE WISCONSIN, INC DBA GAMETIME OF SPRING LAKE, NJ, FOR PLAYGROUND AND OUTDOOR FITNESS EQUIPMENT, SITE ACCESSORIES, SURFACING, AND RELATED PRODUCTS AND SERVICES AT REVAR D PARK, FOR A COST NOT TO EXCEED \$58,457; AND AUTHORIZING THE PURCHASING MANAGER, OR HER DESIGNEE, TO ISSUE THE PURCHASE ORDER**

WHEREAS, on September 24, 2019, a large eucalyptus tree at Revard Park (1920 Gordon Avenue, Modesto, CA 95350) fell onto the playground area of the park causing significant damage to the playground equipment; and

WHEREAS, the following day the tree was removed by City Staff and a temporary fence was erected around the playground and closed indefinitely; and

WHEREAS, on October 13, 2020, by Resolution 2020-425, the City Council accepted a California State Parks grant award under the Per Capita Program, in the amount of \$177,952 and allocated \$77,952 toward the replacement of Revard Neighborhood Park’s playground in Non-Capital Project #101289; and

WHEREAS, the Parks Planning and Development Division has developed a scope of work for the playground as well as a full project budget; and

WHEREAS, Finance Department’s Purchasing Division suggested “piggyback” on an existing competitively bid contract (**Attachment 1**), OMNIA, #2017001134 – **PLAYGROUND AND OUTDOOR FITNESS EQUIPMENT, SITE ACCESSORIES, SURFACING, AND RELATED PRODUCTS AND SERVICES**. By accessing the terms of the OMNIA contract, this creates a cost savings of staff time within the PRND, Purchasing Division and the City Clerk’s Office due to the limited number of competitors to respond to a Request for Bid (RFB); and

WHEREAS, OMNIA's bid review committee and board established that Playcore Wisconsin, Inc (Gametime) of Spring Lake, NJ was the most competitive bidder. Gametime, was awarded contract #2017001134 effective July 1, 2017 through June 30, 2022, with the option to extend for two (2) additional 2-year periods; and

WHEREAS, through this contract, Gametime has provided a quote for the Revard Park Playground Renovation project in the amount of \$58,456.26; and

WHEREAS, the installation of the playground equipment is not included in the purchase price and will be bid separately; and

WHEREAS, Modesto Municipal Code Section 8-3.203 generally requires all purchases, which meet or exceed \$50,000 for material, equipment or contractual services to be formally bid. However, exceptions to the formal bidding process are granted in MMC 8-3.204(d) "Where the Purchasing Manager, in his or her discretion, determines that a process other than the formal bid procedure set for in Section 8-3.203 will result in procurement for the City at the lowest possible cost commensurate with the desired quality." In addition, MMC 8-3.202(d) encourages the Purchasing Manager to join with the State of California and other units of government in cooperative purchasing plans when the best cost savings interest of the City would be served. By "accessing the terms" of the OMNIA Contract 2017001134, the purchase of this equipment will conform to MMC Section 8-3.204(d).

NOW, THEREFORE BE IT RESOLVED, by the Council of the City of Modesto that it hereby approves a Resolution approving the competitive bidding process from OMNIA, Charlotte, NC with Playcore Wisconsin, Inc DBA Gametime of Spring Lake,

NJ, for Playground and Outdoor Fitness Equipment, Site Accessories, Surfacing, and Related Products and Services at Revard Park, for a cost not to exceed \$58,457.


BE IT FURTHER RESOLVED that the Purchasing Manager, or her designee, is authorized to issue the purchase order.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 11th day of January, 2022, by Councilmember Wright, who moved its adoption, which motion being duly seconded by Councilmember Ricci, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Escutia-Braaton, Madrigal, Ricci,  
Wright, Zoslocki, Mayor Zwahlen

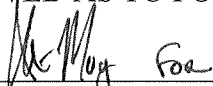
NOES: Councilmembers: None

ABSENT: Councilmembers: Kenoyer

ATTEST:   
DANA SANCHEZ, Interim City Clerk

(SEAL)

APPROVED AS TO FORM:

BY:   
JOSE M. SANCHEZ, City Attorney



**U.S. COMMUNITIES®**  
GOVERNMENT PURCHASING ALLIANCE



**COMPETITIVE SOLICITATION**

**BY CITY OF CHARLOTTE, NORTH CAROLINA**

**FOR**

**PLAYGROUND EQUIPMENT, OUTDOOR FITNESS EQUIPMENT,  
SITE ACCESSORIES, SURFACING, AND RELATED PRODUCTS  
AND SERVICES**

**ON BEHALF OF ITSELF AND OTHER GOVERNMENT AGENCIES**

**AND MADE AVAILABLE THROUGH THE U.S. COMMUNITIES**

**GOVERNMENT PURCHASING ALLIANCE**

**RFP #269-2017-028**

**January 25, 2017**

**REQUEST FOR PROPOSALS**  
**RFP # 269-2017-028**

**Playground Equipment, Outdoor Fitness Equipment, Site Accessories, Surfacing, and Related Products and Services**

JANURARY 25, 2017

Dear Sir or Madam:

The City of Charlotte, North Carolina (herein “City” or “Lead Public Agency”) on behalf of itself and all states, local governments, school districts, and higher education institutions in the United States of America, and other government agencies and nonprofit organizations (herein “Participating Public Agencies”) is now accepting Proposals for Playground Equipment, Outdoor Fitness Equipment, Site Accessories, Surfacing, and Related Products and Services. The requirements for submitting a Proposal are stated in the attached Request for Proposals (the “RFP”). Please review them carefully.

A **Non-Mandatory** Pre-Proposal Conference for the purpose of reviewing the RFP and answering questions regarding the Services will be held on **FEBRUARY 7, 2017, at 10:00 a.m.**, at the Charlotte-Mecklenburg Government Center (CMGC), 600 East Fourth Street, Charlotte, North Carolina 28202, Conference Room 280 or via teleconference at 704-432-5488. Please bring a copy of the RFP with you at that time. All interested Companies should return a completed Request For Proposals Acknowledgement Form (see Section 6, Form 1) by the date stated in the schedule in Section 3.1 of this RFP.

An electronic copy of the RFP in Microsoft Word format may be obtained by contacting Karen Ewing at [kewing@charlottenc.gov](mailto:kewing@charlottenc.gov).

All Proposals are due to the Management and Financial Services, Procurement Management Division, 9th Floor, CMGC 600 East Fourth Street, Charlotte, North Carolina 28202, no later than **MARCH 16, 2017 at 2:00 p.m.**

Two (2) original Proposals signed in ink by a company official authorized to make a legal and binding offer, and ten (10) electronic copies of the Proposal on individual flash drives in a searchable format such as MS Word or Adobe Acrobat must be submitted in a sealed box or opaque envelope plainly marked with the Proposal number and service description as follows:

**Request for Proposals**

**Attention: Karen Ewing**

**[Name of Company Submitting Proposal]**

**Playground Equipment, Outdoor Fitness Equipment, Site Accessories, Surfacing, and Related Products & Services**

**RFP # 269-2017-028**

RFP questions must be directed to Karen Ewing, Management and Financial Services, Procurement Management Division, per the enclosed instructions in Section 3.3. The City is an equal opportunity purchaser.

Sincerely,

Kay Elmore  
Chief Procurement Officer

cc: Alexis Turner, U.S. Communities  
RFP Project File

**Checklist for submitting a Proposal:**

**Step 1- Read the document fully.**

**Step 2-** If you plan on submitting a Proposal then fax **Form 1 in Section 6** to the number listed on the sheet.

**Steps 3-** If you have any questions send them before the deadline listed in **Section 3.3**.

**If you plan to submit a Proposal you must follow this checklist, and must include everything detailed below.**

**Proposal Copies** - Please provide the specified number for each format

- 2 Copies marked “Original” in a sealed, non-transparent envelope that includes the Company name, the RFP number, and identification of the equipment, supply, and/or Services for which the Proposal is submitted.
- 10 Copies on flash drive.

**Proposal Format** - Proposals should be formatted as follows:

Included (Check)	Requirements
	Cover Letter (per Section 5.1.1)
	Executive Summary (per Section 5.1.2)
	Addenda Acknowledgement Form (Section 6, Form 2)
	Proposal Submission Form (Section 6, Form 3)
	Fixed Percentage Discounts (Section 6, Form 4)
	Complete Playground Designs (per Section 6, Form 4)
	MWSBE Utilization (Section 6, Form 5)
	Company’s Background Response ) Section 6, Form 6)
	References (Section 6, Form 7)
	Non-Discrimination Provision (Section 6, Form 8)
	Environmental Purchasing Responses (Section 6, Form 9)
	U.S. Communities Supplier Worksheet (Section 7)
	U. S. Communities Supplier Information (Section 7)
	U. S. Communities Administration Agreement – Signed, unaltered (Section 7)
	IPEMA Certification (per Section 4.2)
	Proposer’s Complete Product & Services Price List (Per Section 4.19)
	ISO 9001 and 14001 Certification (per Section 4.2)
	Exceptions to any part of the RFP (If you take any exceptions to anything in this document, please list it in a category in your Proposal called “Exceptions” and offer an alternative solution).

**The above items constitute all that must be included in the Proposal.** If awarded a contract, you will be required to provide an insurance certificate that meets or exceeds the requirements set forth in Exhibit A, Section 26.

**It is the Company’s responsibility to check [www.ips.state.nc.us](http://www.ips.state.nc.us) or <http://charlottenc.gov/DoingBusiness/Pages/ContractOpportunities.aspx> for any addenda or changes to this Project. Search for RFP # 269-2017-028 to find if any documents or changes have been posted.**

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# Section 1

## U.S. Communities Overview and Requirements

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### 1. U.S. COMMUNITIES OVERVIEW AND REQUIREMENTS

#### 1.1 MASTER AGREEMENT

City of Charlotte (herein “Lead Public Agency”) on behalf of itself and all states, local governments, school districts, and higher education institutions in the United States of America, and other government agencies and nonprofit organizations (herein “Participating Public Agencies”) is soliciting proposals from qualified suppliers to enter into a Master Agreement for a complete line of Playground Equipment, Outdoor Fitness Equipment, Site Accessories, Surfacing Material, and Related Products and Services (herein “Products and Services”).

#### 1.2 OBJECTIVES

- A. Provide a comprehensive competitively solicited Master Agreement offering Products and Services to Participating Public Agencies;
- B. Establish the Master Agreement as a Supplier’s primary offering to Participating Public Agencies;
- C. Achieve cost savings for Suppliers and Participating Public Agencies through a single competitive solicitation process that eliminates the need for multiple proposals;
- D. Combine the volumes of Participating Public Agencies to achieve cost effective pricing;
- E. Reduce the administrative and overhead costs of Suppliers and Participating Public Agencies through state of the art ordering and delivery systems;
- F. Provide Participating Public Agencies with environmentally responsible Products and Services.

#### 1.3 GENERAL DEFINITION OF PRODUCTS AND/OR SERVICES

Proposers are expected to propose the broadest possible selection of Playground Equipment, Outdoor Fitness Equipment, Site Accessories, Surfacing Material, and Related Products and Services that they offer commercially. The intent of this solicitation is to provide Participating Public Agencies with turnkey solutions to meet their various needs. Therefore, the Suppliers should have demonstrated experience in providing and installing the Products and Services as defined in this RFP, including but not limited to the following categories:

- 1) **Playground Equipment** - A complete listing of all park and Playground Equipment, Outdoor Fitness Equipment (for all ages) including, but not limited to, themed systems, stand-alone activities, system components, and replacement parts available from the Company.
- 2) **Outdoor Fitness Equipment** – A complete listing of all Outdoor Fitness Equipment for all ages and levels including, but not limited to, challenge courses, strength building and resistance mechanisms, multigenerational fitness, optional precision timing systems, climbing walls, pool equipment, pool lifts, and pool timing systems.
- 3) **Site Accessories** - A complete listing of all Site Accessories such as, but not limited to, benches, picnic tables, planters, bike racks, bike lockers, shelter and shade structures, bleachers, grandstands, scoreboards and other related Site Accessories available from the Company.

## U.S. Communities Overview and Requirements

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- 4) **Surfacing Materials** - A complete listing of all park and playground Surfacing Materials including but not limited to pour in place, rubber tiles, wood fiber, and recycled materials available from the Company.
- 5) **Related Products** – Additional products such as, water parks, skate parks, dog parks and any other related Products available from the Company.
- 6) **Services** - The complete listing of Services available from the Supplier such as, but not limited to, installation, design, layout, repair and/or maintenance, removal, disposal, project management and any other related Services to provide customer support.

### 1.4 U.S. COMMUNITIES BACKGROUND

U.S. Communities Government Purchasing Alliance (herein “U.S. Communities”) assists Participating Public Agencies to reduce the cost of purchased goods through strategic sourcing that combines the volumes and the purchasing power of public agencies nationwide. This is accomplished through an award of competitively solicited Contracts for high quality Products and Services by large and well recognized public agencies (herein “Lead Public Agencies”). The Contracts are provided for use by not only the respective Lead Public Agency, but also by other Participating Public Agencies.

#### 1.4.1 National Sponsors

U.S. Communities is jointly sponsored by the National Association of Counties (NACo), the National League of Cities (NLC), the Association of School Business Officials International (ASBO), the United States Conference of Mayors (USCM) and the National Governors Association (NGA) (herein “National Sponsors”).

#### 1.4.2 Advisory Board

The U.S. Communities Advisory Board is made up of key government purchasing officials from across the United States.

Each [Advisory Board Member](#) is expected to actively participate in product Proposals and selection, participate in policy direction, and share expertise and purchasing innovations.

## U.S. Communities Overview and Requirements

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### *Current U.S. Communities Advisory Board Members*

Auburn University, AL	Great Valley School District, PA
Beaverton School District, OR	Harford County Public Schools, MD
City and County of Denver, CO	Hennepin County, MN
City of Chicago, IL	Los Angeles County, CA
City of El Paso, TX	Maricopa County, AZ
City of Houston, TX	Miami-Dade County, FL
City of Kansas City, MO	Nassau BOCES, NY
City of Los Angeles, CA	North Carolina State University, NC
City of Ocean City, NJ	Onondaga County, NY
City of Seattle, WA	Port of Portland, OR
Cobb County, GA	Prince William County Schools, VA
Denver Public Schools, CO	San Diego Unified School District, CA
Emory University, GA	State of Iowa, IA
Fairfax County, VA	The School District of Collier County
Fresno Unified School District, CA	

### 1.4.3 Participating Public Agencies

Today more than 55,000 public agencies utilize U.S. Communities Contracts and suppliers to procure over \$2.0 Billion Dollars in Products and Services annually. Each month more than 500 new public agencies register to participate. The continuing rapid growth of public agency participation is fueled by the program's proven track record of providing public agencies unparalleled value.

The Supplier(s) must communicate directly with any Participating Public Agency concerning the placement of orders, issuance of the purchase order, Contractual disputes, invoicing, and payment.

City of Charlotte, North Carolina is acting as "Contracting Agent" for the Participating Public Agencies and shall **not** be held liable for any costs, damages, expenses, fees, liabilities, etc. incurred by any other Participating Public Agency.

Each Participating Public Agency enters into a Master Intergovernmental Cooperative Purchasing Agreement (MICPA) outlining the terms and conditions that allow access to the Lead Public Agencies' Master Agreements. Under the terms of the MICPA, the procurement by the Participating Public Agency shall be construed to be in accordance with, and governed by, the laws of the state in which the Participating Public Agency resides. A copy of the MICPA is attached in Section 8.

### 1.4.4 Estimated Volume

The estimated dollar volume of Products and Services purchased under the proposed Master Agreement is \$100 Million Dollars annually. This estimate is based on the anticipated volume of the Lead Public Agency, the U.S. Communities Advisory Board members, and current sales within the U.S. Communities program. While there is no minimum quantity of Products required to be purchased under the proposed Master Agreement, City of Charlotte and the U.S. Communities Advisory Board Members are committed

# Section 1

## U.S. Communities Overview and Requirements

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to utilizing the Master Agreement. The Advisory Board members shall determine if the Master Agreement is of value to their agency, and will promote the Master Agreement among other public agencies nationwide and internationally. The Advisory Board in 2015 purchased more than \$160 Million Dollars of Products and Services from existing U.S. Communities Contracts.

### **1.4.5 Marketing Support**

U. S. Communities provides marketing support for each Supplier's Products through the following:

- National Sponsors as referenced above.
- State Associations of Counties, Schools and Municipal Leagues.
- Administrative and marketing personnel that directly promote the U.S. Communities Suppliers to Participating Public Agencies through public agency meetings, direct mail, email, online and print advertising, social media, articles, and exhibiting and presenting at national and local trade shows.
- U.S. Communities provides Suppliers government sales training, and a host of online marketing and sales management tools to effectively increase sales through U.S. Communities.

### **1.4.6 Multiple Awards**

Multiple awards may be issued as a result of the solicitation. Multiple Awards will ensure that any ensuing Master Agreements fulfill current and future requirements of the diverse and large number of Participating Public Agencies. The City of Charlotte reserves the right to award the Contract locally and/or nationally in the aggregate, by section, multiple award, primary, secondary, and tertiary, whichever is in the best interest of the City of Charlotte and Participating Public Agencies as a result of this solicitation.

### **1.4.7 Evaluation of Proposals**

Proposals will be evaluated by the Lead Public Agency in accordance with, and subject to, the relevant statutes, ordinances, rules and regulations that govern its procurement practices.

U.S. Communities Advisory Board members and other Participating Public Agencies will assist the Lead Public Agency in evaluating proposals. The Supplier(s) that respond(s) affirmatively meets the requirements of this Request for Proposal and provides the best overall value will be eligible for a Contract award. U.S. Communities reserves the right to make available or not make available Master Agreements awarded by a Lead Public Agency to Participating Public Agencies.

**SUPPLIER QUALIFICATIONS**

**1.5 SUPPLIERS**

**1.5.1 Commitments**

U.S. Communities views the relationship with an awarded Supplier as an opportunity to provide maximum benefit to both the Participating Public Agencies and to the Supplier.

The successful foundation of the partnership requires commitments from both U.S. Communities and the Supplier. U.S. Communities requires the Supplier to make the four commitments set forth below (Corporate, Pricing, Economy, and Sales) to ensure that Supplier is providing the highest level of public benefit to Participating Public Agencies:

(a) **Corporate Commitment.**

(i) The pricing, terms and conditions of the Master Agreement shall, at all times, be Supplier's primary Contractual offering of Products and Services to Public Agencies. All of Supplier's direct and indirect marketing and sales efforts to Public Agencies shall demonstrate that the Master Agreement is Supplier's primary offering and not just one of Supplier's Contract options.

(ii) Supplier's sales force (including inside, direct and/or authorized dealers, distributors and representatives) shall always present the Master Agreement when marketing Products or Services to Public Agencies.

(iii) Supplier shall advise all Public Agencies that are existing customers of Supplier as to the pricing and other value offered through the Master Agreement.

(iv) Upon authorization by a Public Agency, Supplier shall transition such Public Agency to the pricing, terms and conditions of the Master Agreement.

(v) Supplier shall ensure that the U.S. Communities program and the Master Agreement are actively supported by Supplier's senior executive management.

(vi) Supplier shall provide a national/senior management level representative with the authority and responsibility to ensure that the Supplier's Commitments are maintained at all times. Supplier shall also designate a lead referral contact person who shall be responsible for receiving communications from U.S. Communities concerning new Participating Public Agency registrations and for ensuring timely follow-up by Supplier's staff to requests for contact from Participating Public Agencies. Supplier shall also provide the personnel necessary to implement and support a supplier-based internet web page dedicated to Supplier's U.S. Communities program and linked to U.S. Communities' website and shall implement and support such web page.

(vii) Supplier shall demonstrate in its procurement solicitation response and throughout the term of the Master Agreement that

# Section 1

## U.S. Communities Overview and Requirements

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national/senior management fully supports the U.S. Communities program and its commitments and requirements. National/Senior management is defined as the executive(s) with Companywide authority.

(viii) Where Supplier has an existing Contract for Products and Services with a state, Supplier shall notify the state of the Master Agreement and transition the state to the pricing, terms and conditions of the Master Agreement upon the state's request. Regardless of whether the state decides to transition to the Master Agreement, Supplier shall primarily offer the Master Agreement to all Public Agencies located within the state.

(b) **Pricing Commitment.**

(i) Supplier represents to U.S. Communities that the pricing offered under the Master Agreement is the lowest overall available pricing (net to purchaser) on Products and Services that it offers to Public Agencies. Supplier's pricing shall be evaluated on either an overall project basis or the Public Agency's actual usage for more frequently purchased Products and Services.

(ii) **Contracts Offering Lower Prices.** If a pre-existing Contract and/or a Public Agency's unique buying pattern provide one or more Public Agencies a lower price than that offered under the Master Agreement, Supplier shall match that lower pricing under the Master Agreement and inform the eligible Public Agencies that the lower pricing is available under the Master Agreement. If an eligible Public Agency requests to be transitioned to the Master Agreement, Supplier shall do so and report the Public Agency's purchases made under the Master Agreement going forward. The price match only applies to the eligible Public Agencies. Below are three examples of Supplier's obligation to match the pricing under Supplier's Contracts offering lower prices.

- (A) Supplier holds a state Contract with lower pricing that is available to all Public Agencies within the state. Supplier would be required to match the lower state pricing under the Master Agreement and make it available to all Public Agencies within the state.
- (B) Supplier holds a regional cooperative Contract with lower pricing that is available only to the ten cooperative members. Supplier would be required to match the lower cooperative pricing under the Master Agreement and make it available to the ten cooperative members.
- (C) Supplier holds a Contract with an individual Public Agency. The Public Agency Contract does not contain any cooperative language and therefore other Public Agencies are not eligible to utilize the Contract. Supplier would be required to match the lower pricing under the

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Master Agreement and make it available only to the individual Public Agency.

(iii) Deviating Buying Patterns. Occasionally U.S. Communities and Supplier may interact with a Public Agency that has a buying pattern or terms and conditions that considerably deviate from the normal Public Agency buying pattern and terms and conditions, and causes Supplier's pricing under the Master Agreement to be higher than an alternative Contract held by Supplier. This could be created by a unique end-user preference or requirements. In the event that this situation occurs, Supplier may address the issue by lowering the price under the Master Agreement on the item(s) causing the large deviation for that Public Agency. Supplier would not be required to lower the price for other Public Agencies.

(iv) Supplier's Options in Responding to a Third Party Procurement Solicitation. While it is the objective of U.S. Communities to encourage Public Agencies to piggyback on to the Master Agreement rather than issue their own procurement solicitations, U.S. Communities recognizes that for various reasons some Public Agencies will issue their own solicitations. The following options are available to Supplier when responding to a Public Agency solicitation:

- (A) Supplier may opt not to respond to the procurement solicitation. Supplier may make the Master Agreement available to the Public Agency as a comparison to its solicitation responses.
- (B) Supplier may respond with the pricing, terms and conditions of the Master Agreement. If Supplier is awarded the Contract, the sales would be reported as sales under the Master Agreement.
- (C) If competitive conditions require pricing lower than the standard Master Agreement pricing, Supplier may submit lower pricing through the Master Agreement. If Supplier is awarded the Contract, the sales would be reported as sales under the Master Agreement. Supplier would not be required to extend the lower price to other Public Agencies.
- (D) Supplier may respond to the procurement solicitation with pricing that is higher (net to buyer) than the pricing offered under the Master Agreement. If awarded a Contract, Supplier shall still be bound by all obligations set forth in this Section 3.3, including, without limitation, the requirement to continue to advise the awarding Public Agency of the pricing, terms and conditions of the Master Agreement.

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# U.S. Communities Overview and Requirements

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- (E) Supplier may respond to the procurement solicitation with pricing that is higher (net to buyer) than the pricing offered under the Master Agreement and if an alternative response is permitted, Supplier may offer the pricing under the Master Agreement as an alternative for consideration.
- (c) **Economy Commitment.** Supplier shall demonstrate the benefits, including the pricing advantage, of the Master Agreement over alternative options, including competitive solicitation pricing and shall proactively offer the terms and pricing under the Master Agreement to Public Agencies as a more effective alternative to the cost and time associated with such alternate Proposals and solicitations.
- (d) **Sales Commitment.** Supplier shall market the Master Agreement through Supplier's sales force or dealer network that is properly trained, engaged and committed to offering the Master Agreement as Supplier's primary offering to Public Agencies. Supplier's sales force compensation and incentives shall be greater than or equal to the compensation and incentives earned under other Contracts to Public Agencies.
- (i) **Supplier Sales.** Supplier shall be responsible for proactive sales of Supplier's Products and Services to Public Agencies and the timely follow-up to sales leads identified by U.S. Communities. Use of product listings, targeted advertising, direct mail, online marketing and other sales initiatives are encouraged. All of Supplier's sales materials targeted towards Public Agencies shall include the U.S. Communities logo. U.S. Communities hereby grants to Supplier, during the term of this Agreement, a non-exclusive, revocable, non-transferable, license to use the U.S. Communities name, trademark, and logo solely to perform its obligations under this Agreement, and for no other purpose. Any goodwill, rights, or benefits derived from Supplier's use of the U.S. Communities name, trademark, or logo shall inure to the benefit of U.S. Communities. U.S. Communities shall provide Supplier with its logo and the standards to be employed in the use of the logo. During the term of the Agreement, the Supplier shall provide U.S. Communities with its logo and the standards to be employed in the use of the logo for purposes of reproducing and using Supplier's name and logo in connection with the advertising, marketing and promotion of the Master Agreement to Public Agencies. Supplier shall assist U.S. Communities by providing camera-ready logos and by participating in related trade shows and conferences. At a minimum, Supplier's sales initiatives shall communicate that (i) the Master Agreement was competitively solicited by the Lead Public Agency, (ii) the Master Agreement provides the Supplier's best overall pricing and value to eligible agencies, (iii) there is no cost to Participating Public Agencies, and (iv) the Master Agreement is a non-exclusive Contract.

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- (ii) Branding and Logo Compliance. Supplier shall be responsible for complying with the U.S. Communities branding and logo standards and guidelines. Prior to use by Supplier, all U.S. Communities related marketing material must be submitted to U.S. Communities for review and approval.
- (iii) Sales Force Training. Supplier shall train its national sales force on the Master Agreement and U.S. Communities program. U.S. Communities shall be available to train on a national, regional or local level and generally assist with the education of sales personnel.
- (iv) Participating Public Agency Access. Supplier shall establish the following communication links to facilitate customer access and communication:
  - (A) A dedicated U.S. Communities internet web-based homepage that is accessible from Supplier's homepage or main menu navigation containing:
    - (1) U.S. Communities standard logo with Founding Co-Sponsors logos;
    - (2) Copy of original procurement solicitation;
    - (3) Copy of Master Agreement including any amendments;
    - (4) Summary of Products and Services pricing;
    - (5) Electronic link to U.S. Communities' online registration page; and
    - (6) Other promotional material as requested by U.S. Communities.
  - (B) A dedicated toll-free national hotline for inquiries regarding U.S. Communities.
  - (C) A dedicated email address for general inquiries in the following format: uscommunities@(name of supplier).com.
- (v) Electronic Registration. Supplier shall be responsible for ensuring that each Public Agency has completed U.S. Communities' online registration process prior to processing the Public Agency's first sales order.
- (vi) Supplier's Performance Review. Upon request by U.S. Communities, Supplier shall participate in a performance review meeting with U.S. Communities to evaluate Supplier's performance of the covenants set forth in this Agreement.
- (vii) Supplier Content. Supplier may, from time to time, provide certain graphics, media, and other content to U.S. Communities (collectively "Supplier Content") for use on U.S. Communities websites and for general marketing and publicity purposes. During the term of the Agreement, Supplier hereby grants to U.S. Communities and its affiliates a non-exclusive, worldwide, free, transferrable, license to reproduce, modify, distribute, publically perform, publically display, and use

**U.S. Communities Overview and Requirements**

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Supplier Content in connection with U.S. Communities websites and for general marketing and publicity purposes, with the right to sublicense each and every such right. Supplier warrants that: (a) Supplier is the owner of or otherwise has the unrestricted right to grant the rights in and to Supplier Content as contemplated hereunder; and (b) the use of Supplier Content and any other materials or Services provided to U.S. Communities as contemplated hereunder will not violate, infringe, or misappropriate the intellectual property rights or other rights of any third party.


**1.6 U.S. COMMUNITIES ADMINISTRATION AGREEMENT INFORMATION**

The Agreement outlines the Supplier's general duties and responsibilities in implementing the U.S. Communities Contract.

The Supplier is required to execute the U.S. Communities Administration Agreement unaltered (included in Section Seven) and submit with the supplier's proposal without exception or alteration. Failure to do so will result in disqualification.

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 <b>New Supplier Implementation Checklist</b>	Target Completion After Award
<b>1. First Conference Call</b>	<b>One Week</b>
Initial Kick Off Call to discuss expectations	
Set Contract Launch Date & Outline Kick Off Plan	
Establish initial contact people & roles/responsibilities	
Supplier Log-In Credentials established	
Set Agency Webinar Dates	
<b>2. Executed Legal Documents</b>	<b>One Week</b>
U.S. Communities Admin Agreement	
Lead Public Agency agreement signed	
<b>3. Program Contact Requirements</b>	<b>One Week</b>
Supplier contacts communicated to U.S. Communities Staff	
Dedicated email	
Dedicated toll free number	
<b>4. Second Conference Call</b>	<b>Two Weeks</b>
Establish Sales Training Webinar Dates	
Complete Supplier Set Up Form	
Complete User Account and User ID Form	
Identify Dates for Senior Management Meeting	
Review Contract Commitments	
<b>5. Marketing Kick Off Call</b>	<b>Two Weeks</b>
Overview of Marketing Requirements	
Establish Timeline for Marketing Deliverables	
Set Weekly Marketing Call	
Discuss Agency Webinar Slides & Set Timeframe for Deliverables	
<b>6. Initial NAM &amp; Staff Training Meetings</b>	<b>Three Weeks</b>
Discuss expectations, roles & responsibilities	
Introduce and review web-based tools	
Review process & expectations of Lead Referral contact with NAM & identified LRC	
<b>7. Senior Management Meeting</b>	<b>Four Weeks</b>
Implementation Process Progress Report	
U.S. Communities & Vendor Organizational Overview	
Supplier Manager to review & further discuss commitments	
<b>8. Review Top Joint Target Opportunities</b>	<b>Five Weeks</b>
Top 10 Local Contracts	
Review top U.S. Communities PPA's	
<b>9. Web Development</b>	
Initiate E-Commerce Conversation	<b>Two Weeks</b>
Product Upload to U.S. Communities site	<b>Five Weeks</b>
<b>10. Sales Training &amp; Roll Out</b>	
Program Manager briefing - Coordinate with NAM	<b>Five Weeks</b>
Initial remote WebEx training for all sales - Coordinate with NAM	<b>Three Weeks</b>
Initiate contact with Advisory Board (AB) members	<b>Six Weeks</b>
Determine PM & Local Metro teams strategy sessions	<b>Six Weeks</b>
<b>11. Marketing – see marketing deliverables checklist as reviewed with marketing contact</b>	<b>Eight Weeks</b>
<b>12. Agency Webinars</b>	<b>Post Launch</b>

**2. INTRODUCTION.**

**2.1 Objective.**

The objective of this RFP is to solicit Proposals that will enable the City and Participating Public Agencies (“PPA”) to determine which Company and Proposed Solution will best meet the City’s needs for providing the Products and Services as requested in this RFP.

**2.2 Definitions.**

As used in this RFP, the following terms shall have the meanings set forth below:

- Acceptance:* Refers to receipt and approval by the City of a Deliverable or Service in accordance with the acceptance process and criteria in the Contract.
- Affiliates:* Refers to all departments or units of the City and all other governmental units, boards, committees or municipalities for which the City processes data or performs Services.
- Biodegradable:* Refers to the ability of an item to be decomposed by bacteria or other living organisms.
- Charlotte Business Inclusion (CBI):* Refers to the Charlotte Business Inclusion office of the City of Charlotte.
- Charlotte Combined Statistical Area (CSA):* Refers to the Charlotte-Gastonia-Salisbury Combined Statistical Area consisting of; (a) the North Carolina counties of Anson, Cabarrus, Cleveland, Gaston, Iredell, Lincoln, Mecklenburg, Rowan, Stanly, and Union; and (b) the South Carolina counties of Chester, Lancaster, and York; a criteria used by Charlotte Business INClusion to determine eligibility to participate in the program.
- City:* Refers to the City of Charlotte, North Carolina.
- Company:* During the solicitation process, refers to a company that has interest in providing the Services. After the solicitation process, refers to a company that has been selected by the City to provide the Services.
- Company Project Manager:* Refers to a specified Company employee representing the best interests of the Company for this Project.
- Contract:* Refers to a written agreement executed by the City and Company for all or part of the Services.
- Deliverables:* Refers to all tasks, reports, information, designs, plans, and other items that the Company is required to deliver to the City in connection with the Contract.
- Documentation:* Refers to all written, electronic, or recorded works that describe the use, functions, features, or purpose of the Deliverables or Services or any component thereof, and which are provided to the City by the Company or its subcontractors, including without limitation all end user

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	manuals, training manuals, guides, program listings, data models, flow charts, and logic diagrams.
<i>Environmentally Preferable Products:</i>	Refers to Products that have a lesser or reduced effect on human health and the environment when compared with competing Products that serves the same purpose. This comparison may consider raw materials acquisition, production, manufacturing, packaging, distribution, reuse, operation, maintenance, or disposal of the product.
<i>Evaluation Committee:</i>	Refers to a City and U.S. Communities appointed Committee that will evaluate Proposals and identify the Company(-ies) best meeting the needs of the City and Participating Public Agencies.
<i>Lead Public Agency:</i>	Refers to the City of Charlotte, North Carolina
<i>Master Agreement:</i>	Refers to the Agreement that is made available by the Lead Public Agency after the successful completion of the competitive solicitation and selection process, wherein Participating Public Agencies may utilize the agreement to purchase Products and Services.
<i>Minority Business Enterprise/MBE:</i>	Refers to a business enterprise that: (a) is certified by the State of North Carolina as a Historically Underutilized Business (HUB) within the meaning of N.C. Gen. Stat. § 143-128.4; (b) is at least fifty-one percent (51%) owned by one or more persons who are members of one of the following groups: African American or Black, Hispanic, Asian, Native American or American Indian; and (c) is headquartered in the Charlotte Combined Statistical Area.
<i>MWSBE:</i>	Refers to SBEs, MBEs and WBEs, collectively.
<i>MWSBE Goal:</i>	If an RFP or Contract has separate Subcontracting Goals for MBEs, WBEs, and/or SBEs, the term MWSBE is a shorthand way to refer collectively to all MBE, WBE, and SBE Goals set for the RFP. In some instances, the City may set one combined goal for MBEs, WBEs, and/or SBEs, in which event the term MWSBE Goal refers to that one, combined goal. In the latter instance, calculated as a percentage, the MWSBE Goal represents the total dollars spent with MBEs, WBEs, and SBEs as a portion of the total Proposal amount, including any contingency.
<i>Participating Public Agency:</i>	Refers to all states, local governments, school districts, and higher education institutions in the United States of American, and other governmental agencies and nonprofit organizations that elect to purchase Products and Services under the Master Agreement.

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<i>Post-Consumer Recycled Material:</i>	Refers to material and by-Products which have served their intended end-use by a consumer and have been recovered or diverted from solid waste. It does not include those materials and by-Products generated from, and commonly reused within, an original manufacturing process.
<i>Products:</i>	Refers to all Products that the Company agrees to provide to the City as part of its Proposal.
<i>Proposal:</i>	Refers to the proposal submitted by a Company for the Products and Services as outlined in this RFP.
<i>Recyclability:</i>	Refers to Products or materials that can be collected, separated or otherwise recovered from the solid waste stream for reuse, or used in the manufacture or assembly of another package or product, through an established recycling program. For Products that are made of both recyclable and non-recyclable components, the recyclable claim should be adequately qualified to avoid consumer deception about which portions or components are recyclable.
<i>Recycled Material:</i>	Refers to material and by-Products which have been recovered or diverted from solid waste for the purpose of recycling. It does not include those materials and by-Products generated from, and commonly reused within, an original manufacturing process.
<i>Services:</i>	Refers to the Playground Equipment, Outdoor Fitness Equipment, Surfacing, Site Accessories and Related Products and Services as requested in this RFP.
<i>Small Business Enterprise/SBE:</i>	Refers to a business enterprise that is certified by the City of Charlotte under Part E of the CBI Policy as meeting all of the requirements for SBE certification.
<i>Specifications and Requirements:</i>	Refers to all definitions, descriptions, requirements, criteria, warranties, and performance standards relating to the Deliverables and Services that are set forth or referenced in: (i) this RFP, including any addenda; (ii) the Documentation; and (iii) any functional and/or technical specifications that are published or provided by the Company or its licensors or suppliers from time to time with respect to all or any part of the Deliverables or Services.
<i>Subcontracting Goals:</i>	Refers to the SBE, MBE, WBE, and MWSBE Goals established by the City for an RFP and resulting Contract.
<i>Women Business Enterprise (WBE):</i>	Refers to a business enterprise that: (a) is certified by the State of North Carolina as a Historically Underutilized Business (HUB) within the meaning of N.C. Gen. Stat. § 143-128.4; (b) is at least fifty-one percent (51%) owned by one or more persons who are female; and (c) is headquartered in the Charlotte Combined Statistical Area.

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*Work Product:* Refers to the Deliverables and all other programs, algorithms, reports, information, designs, plans and other items developed by the Company in connection with this RFP, and all partial, intermediate or preliminary versions of any of the foregoing.

### 2.3 Accuracy of RFP and Related Documents.

Each Company must independently evaluate all information provided by the City. The City makes no representations or warranties regarding any information presented in this RFP, or otherwise made available during this procurement process, and assumes no responsibility for conclusions or interpretations derived from such information. In addition, the City will not be bound by or be responsible for any explanation or conclusions regarding this RFP or any related documents other than those provided by an addendum issued by the City. Companies may not rely on any oral statement by the City or its agents, advisors, or consultants.

If a Company identifies potential errors or omissions in this RFP or any other related documents, the Company should immediately notify the City of such potential discrepancy in writing. The City may issue a written addendum if the City determines clarification necessary. Each Company requesting an interpretation will be responsible for delivering such requests to the City's designated representative as directed in this RFP Section 3.3.

### 2.4 City's Rights and Options.

The City reserves the right, at the City's sole discretion, to take any action affecting this RFP, this RFP process, or the Services or facilities subject to this RFP that would be in the best interests of the City, including:

- 2.4.1 To supplement, amend, substitute, or otherwise modify this RFP, including the schedule, or to cancel this RFP, at any time;
- 2.4.2 To require any Companies to supplement or clarify its Proposal or provide additional information relating to its Proposals;
- 2.4.3 To investigate the qualifications, experience, capabilities, and financial standing of each Company submitting a Proposal;
- 2.4.4 To waive any defect or irregularity in any Proposal received;
- 2.4.5 To reject any or all Proposals;
- 2.4.6 To share the Proposals with City employees and contractors in addition to the Evaluation Committee as deemed necessary by the City;
- 2.4.7 To award all, none, or any part of the Services and enter into Contracts with one or more of the responding Companies deemed by the City to be in the best interest of the City, which may be done with or without re-solicitation;
- 2.4.8 To discuss and negotiate with any Company(-ies) their Proposal terms and conditions, including but not limited to financial terms; and
- 2.4.9 To terminate discussions and negotiations with any Company at any time and for any reason.

### 2.5 Expense of Submittal Preparation.

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The City accepts no liability, and Companies will have no actionable claims, for reimbursement of any costs or expenses incurred in participating in this solicitation process. This includes expenses and costs related to Proposal submission, submission of written questions, attendance at pre-proposal meetings or evaluation interviews, contract negotiations, or activities required for contract execution.

#### **2.6 Proposal Conditions.**

The following terms are applicable to this RFP and the Company's Proposal.

##### **2.6.1 RFP Not An Offer.**

This RFP does not constitute an offer by the City. No binding contract, obligation to negotiate, or any other obligation shall be created on the part of the City unless the City and the Company execute a Contract. No recommendations or conclusions from this RFP process concerning the Company shall constitute a right (property or otherwise) under the Constitution of the United States or under the Constitution, case law, or statutory law of North Carolina.

##### **2.6.2 Trade Secrets and Personal Identification Information /Confidentiality.**

Upon receipt at the Procurement Management Division, all materials submitted by a Company (including the Proposal) are considered public records except for (1) material that qualifies as "trade secret" information under N.C. Gen. Stat. § 66-152 et seq. ("Trade Secrets") or (2) "personal identification information" protected by state or federal law, to include, but not be limited to, social security numbers, bank account numbers, and driver's license numbers ("Personal Identification Information" or "PII"). After the Proposal due date, the Evaluation Committee, other City staff, and members of the general public who submit public records requests may review the Proposal.

The public disclosure of the contents of a Proposal or other materials submitted by a Company is governed by N.C. Gen. Stat. §§ 132 and 66-152 et seq.. If any Proposal contains Trade Secrets or PII, such Trade Secrets and PII must be specifically and clearly identified in accordance with this Section 2.6.2.

Any Trade Secrets or PII submitted by a Company must be clearly segregated from the rest of the Proposal. For hard copy Proposals, it must be submitted in a separate, sealed envelope, marked either "Personal Identification Information – Confidential" or "Trade Secret—Confidential and Proprietary Information." For electronic submissions it must also be submitted on a separate CD or flash drive. In both hard copy or electronic format, the confidentiality caption stated above must appear on each page of the Trade Secret or PII materials.

By submitting a Proposal, each Company agrees that the City may reveal any Trade Secret materials and PII contained therein to all City staff and City officials involved in the selection process, and to any outside consultant or other third parties who serve on the Evaluation Committee or who are hired or appointed by the City to assist in the evaluation process.

Furthermore, each Company agrees to indemnify and hold harmless the City and each of its officers, employees, and agents from all costs, damages, and

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expenses incurred in connection with refusing to disclose any material that the Company has designated as a trade secret. The City may disqualify and Company that designates its entire Proposal as a trade secret, or any portion thereof that clearly does not qualify under applicable law as a Trade Secret.

#### **2.6.3** Amendments to RFP.

If the City amends this RFP, addenda will be posted to the IPS and Charlotte NC websites at [www.ips.state.nc.us](http://www.ips.state.nc.us), and <http://charlottenc.gov/DoingBusiness/Pages/ContractOpportunities.aspx> RFP# 269-2017-028. Companies are required to acknowledge receipt of each addendum by including the Addenda Receipt Confirmation Form (Section 6, Form 2) with their Proposals.

#### **2.6.4** Proposal Terms Firm and Irreversible.

The signed Proposal shall be considered a firm offer on the part of the Company. The City reserves the right to negotiate price and other terms. All Proposal elements (including all statements, claims, declarations, prices, and specifications) shall be considered firm and irrevocable for purposes of future Contract negotiations unless specifically waived in writing by the City. The Company chosen for award should be prepared to have its Proposal and any relevant correspondence incorporated into the Contract, either in part or in its entirety, at the City's election.

#### **2.6.5** Proposal Binding for 180 Days.

Section 6, Form 3 contains a statement to the effect that the Proposal is a firm offer for one-hundred-eighty (180) calendar day period from the date of the opening. This statement must be signed by an individual authorized to bind the Company. All prices quoted shall be firm and fixed for the full Contract period. The City shall have the option to accept subject to exception by Contract.

#### **2.6.6** Charlotte Business INClusion Program.

Pursuant to Charlotte City Council's adoption of the Charlotte Business INClusion (CBI) Policy, the CBI program promotes diversity, inclusion, and local business opportunities in the City's contracting and procurement process for Minority, Women, and Small Business Enterprises (MWSBEs) headquartered in the Charlotte Combined Statistical Area (CSA). The CBI Policy is posted at: [www.charlottebusinessinclusion.com](http://www.charlottebusinessinclusion.com).

The City is committed to promoting opportunities for maximum participation of certified MWSBEs on City funded contracts at both the Prime and Subcontract level. For MWSBE participation to count towards a Goal, MWSBEs must meet both the certification and geographic requirements as detailed throughout this solicitation and in the CBI Policy.

#### **2.6.7** Subcontracting.

The Company given contract award shall be the prime contractor and shall be solely responsible for contractual performance. In the event of a subcontracting relationship, the Company shall remain the prime contractor and will assume all responsibility for the performance of the Services that are supplied by all subcontractors. The City retains the right to approve all subcontractors.

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#### 2.6.8 Equal Opportunity.

The City has an equal opportunity purchasing policy. The City seeks to ensure that all segments of the business community have access to supplying the goods and Services needed by City programs. The City provides equal opportunity for all businesses and does not discriminate against any Companies regardless of race, color, religion, age, sex, and national origin or disability.

#### 2.6.9 Use of City's Name.

No advertising, sales promotion, or other materials of the Company or its agents or representatives may identify or reference the City in any manner absent the prior written consent of the City.

#### 2.6.10 Withdrawal for Modification of Proposals.

Companies may change or withdraw a previously-submitted Proposal at any time prior to the Proposal due date. Only formal written requests addressed in the same manner as the Proposal and received by the City prior to the Proposal due date will be accepted. The request must be in a sealed envelope that is plainly marked "**Modifications to Proposal.**" No oral modifications will be allowed. If the Company complies with this Section, after the Proposal due date, the Proposal, will be withdrawn or corrected in accordance with the written request(s).

#### 2.6.11 No Bribery.

In submitting a response to this RFP, each Company certifies that neither it, any of its affiliates or subcontractors, nor any employees of any of the foregoing has bribed, or attempted to bribe, an officer or employee of the City in connection with the Contract.

#### 2.6.12 Exceptions to the RFP.

Other than exceptions that are stated in compliance with this Section and Section 5.1.5, each Proposal shall be deemed to agree to comply with all terms, conditions, specifications, and requirements of this RFP including the Sample Contract language included in Exhibit A. An "exception" is defined as the Company's inability or unwillingness to meet a term, condition, specification, or requirement in the manner specified in the RFP including the Sample Contract language included as Exhibit A. All exceptions taken must be identified and explained in writing in your Proposal and must specifically reference the relevant section(s) of this RFP. If the Company provides an alternate solution when taking an exception to a requirement, the benefits of this alternative solution and impact, if any, on any part of the remainder of the Company's solution, must be described in detail.

#### 2.6.13 Fair Trade Certifications.

By submitting a Proposal, the Company certifies that:

- The prices in its Proposal have been arrived at independently, without consultation, communication, or agreement with anyone, as to any matter relating to such prices for the purpose of restricting competition;
- Unless otherwise required by law, the prices quoted in its Proposal have not been knowingly disclosed by the Company and will not knowingly be so disclosed prior to the Proposal due date; and

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- No attempt has been made or will be made by the Company to induce any other person or firm to submit or not to submit a Proposal for the purpose of restricting competition.

**2.6.14** Companies' Obligation to Fully Inform Themselves.

Companies or their authorized representatives must fully inform themselves as to all conditions, requirements, and specifications of this RFP before submitting Proposals. Failure to do so will be at the Company's own risk.

**2.6.15** Environmentally Preferable Purchasing.

The City promotes the practice of Environmentally Preferable Purchasing (EPP) in acquiring Products or Services. Applicable EPP attributes that may be taken into consideration as environmental criterion include the following:

Recycled content	Recyclability
Post-Consumer Recycled Material	Biodegradability

Companies able to supply Products or Services containing any of the applicable environmentally preferable attributes that meet performance requirements are encouraged to offer them in the Proposal. Companies must provide certification of environmental standards and other environmental claims, such as recycled content and emissions data or a formal statement signed by a senior company official.

**3 PROCUREMENT PROCESS.**

This Section 3 contains information about the procurement process for this Project.

**3.1 Schedule and Process.**

The following chart shows the schedule of events for the conduct of this RFP. The key events and deadlines for this process are as follows, some of which are set forth in more detail in the Sections that follow:

DATE	EVENT
JANURARY 25, 2017	<i>Issuance of RFP.</i> The City issues this RFP.
FEBRUARY 1, 2017	<i>Request for Proposals Acknowledgement.</i> Companies that intend to submit a Proposal shall submit the RFP Acknowledgement Form on this date to the email or fax number listed in Section 3.3.
FEBRUARY 3, 2017	<i>Submission of Written Questions Prior to Pre-Proposal Conference.</i> Companies are permitted to submit written questions, for purposes of clarifying this RFP. All submissions must be pursuant to the instructions in Section 3.3 by 5:00 p.m.
FEBRUARY 7, 2017	<i>Non-Mandatory Pre-Proposal Conference</i> to be held at the location indicated in Section 3.4 at 10:00 a.m.
FEBRUARY 15, 2017	<i>Submission of Written Questions After the Pre-Proposal Conference.</i> Questions are due by 5:00 p.m.
MARCH 16, 2017	<i>Proposal Submission.</i> Proposals are due by 2:00 p.m. at the Procurement Management Division, CMGC 9 <sup>th</sup> Floor.
MARCH 20, 2017- APRIL 13, 2017	<i>Evaluation.</i> The Evaluation Committee will assess each Proposal and conduct evaluation activities with Companies.
MAY 9, 2017	<i>Contract Award by Charlotte City Council.</i>
JULY 1, 2017	<i>Services commence.</i> Company begins providing the Services.

**3.2 Intent to Propose.**

Please acknowledge receipt of this RFP via facsimile by **FEBRUARY 1, 2017** using the Request for Proposals Acknowledgement Form located in Section 6, Form 1. Complete the form in its entirety advising the City of your firm’s intention to submit or not submit a Proposal. Fax or email a copy of the completed and signed form to the number or email address listed in paragraph 3.3 below, Attention: Karen Ewing. The City strongly encourages Companies to submit this form prior to the Pre-Proposal conference but Companies shall not be precluded from submitting a Proposal if they fail to submit this form.

**3.3 Interpretations and Addenda.**

There are two (2) ways to ask questions about this RFP: (1) submit a question in writing to the Procurement Officer at the e-mail address listed below; or (2) ask a question at the Pre-Proposal Conference. Other than these permitted questions, Companies should refrain from contacting City staff prior to the Proposal Due Date. **The City is not bound by any statements, representations or clarifications regarding this RFP other than those provided in writing by the Procurement**

**Officer.**

Karen Ewing, Deputy Chief Procurement Officer  
City of Charlotte  
Procurement Management Division  
600 East 4<sup>th</sup> Street, CMGC 9<sup>th</sup> Floor  
Charlotte, NC 28202  
RFP # 269-2017-028  
Fax: 704-632-8254  
E-mail: kewing@charlottenc.gov

When submitting questions, please reference the RFP page and topic number. In order for questions to be addressed at the Pre-Proposal Conference, they must be submitted by **5:00 p.m. on February 3, 2017**.

After the Pre-Proposal Conference, questions must be submitted in writing by the deadline stated in Section 3.1. In the case of questions not submitted by the deadline, the Procurement Officer will, based on the availability of time to research and communicate an answer, decide whether an answer can be given before the Proposal Due Date. When responding to Service Provider questions or issuing addenda to the RFP, the City will post the answer or information to the Internet at [www.ips.state.nc.us](http://www.ips.state.nc.us), and <http://charlottenc.gov/DoingBusiness/Pages/ContractOpportunities.aspx> RFP# 269-2017-028. Companies are required to acknowledge their receipt of each addenda by including in the Proposal a completed Addenda Receipt Confirmation Form (Section 6, Form 2).

**3.4 Pre-Proposal Conference.**

A Non-Mandatory Pre-Proposal Conference will be conducted on **FEBRUARY 7, 2017, at 10:00 a.m.** The meeting will be held at the Charlotte-Mecklenburg Government Center (CMGC), 600 East Fourth Street, Charlotte, North Carolina 28202, 2<sup>nd</sup> Floor Conference Room #280 or via teleconference at 704-432-5488.

While attendance at the Pre-Proposal Conference is not mandatory, all interested Companies are encouraged to attend. If special accommodations are required for attendance, please notify Karen Ewing in advance of the conference date and time identifying the special accommodations required.

**3.5 Submission of Proposals.**

Proposals must be in the format specified in Section 5 of this RFP. Ten (10) electronic copy on individual flash drives in a searchable format such as MS Word or Adobe Acrobat and two (2) original Proposals signed in ink by a company official authorized to make a legal and binding offer shall be submitted to the address listed in Section 3.3 above by **MARCH 16, 2017 on or before but no later than 2:00 p.m.** The original Proposal and each of the copies shall be complete and unabridged, and shall not refer to any other copy of the signed and sealed original for any references, clarifications, or additional information.

When received, all Proposals and supporting materials, as well as correspondence relating to this RFP, shall become the property of the City. **Proposals sent by fax or email will not be accepted.**

**Due to security measures at the Charlotte-Mecklenburg Government Center (CMGC), your sealed boxes, including any portions marked as**

**Confidential/Trade Secret, may be searched and thoroughly inspected prior to admittance. Please allow time for this search to take place and to re-seal the box if delivering your Proposal in person to the CMGC.**

Do not arrive at the Procurement Management Division on the Proposal due date for the purposes of reviewing your competitors' Proposals. The Proposals will not be read aloud or made available to inspect or copy until any trade secret issues have been resolved. All Proposals will be time-stamped upon receipt and held in a secure place until opening.

**3.6 Correction of Errors.**

The person signing the Proposal must initial erasures or other corrections in the Proposal. The Company further agrees that in the event of any obvious errors, the City reserves the right to waive such errors in its sole discretion. The City, however, has no obligation under any circumstances to waive such errors.

**3.7 Evaluation.**

As part of the evaluation process, the Evaluation Committee may engage in discussions with one or more Company(ies). Discussions might be held with individual Companies to determine in greater detail the Company's qualifications, to explore with the Company the scope and nature of the required contractual Services, to learn the Company's proposed method of performance and the relative utility of alternative methods, and to facilitate arriving at a Contract that will be satisfactory to the City.

The City may in its discretion require one or more Companies to make presentations to the Evaluation Committee or appear before the City and/or its representatives for an interview. During such interview, the Company may be required to orally and otherwise present its Proposal and to respond in detail to any questions posed. Additional meetings may be held to clarify issues or to address comments, as the City deems appropriate. Companies will be notified in advance of the time and format of such meetings.

Since the City may choose to award a Contract without engaging in discussions or negotiations, the Proposals submitted shall state the Company's best offer for performing the Services described in this RFP.

**3.8 Proposal Evaluation Criteria.**

Proposals will be evaluated based on the Company's ability to meet the performance requirements of this RFP. This section provides a description of the evaluation criteria that will be used to evaluate the Proposals. To be deemed responsive, it is important for the Company to provide appropriate detail to demonstrate satisfaction of each criterion and compliance with the performance provisions outlined in this RFP. The Company's Proposal will be the primary source of information used in the evaluation process. Proposals must contain information specifically related to the proposed Products and Services as requested herein. Failure of any Company to submit information requested may result in the elimination of the Proposal from further evaluation.

Proposals will be assessed to determine the most comprehensive, competitive and best value solution for the City taking into consideration as a minimum response, but not limited to the following criteria:

1. Adherence to all requirements of this RFP.

2. Demonstrated knowledge, background, capacity, and ability to sell, deliver, and support all Products and Services offered and in compliance with the requirements of this RFP.
3. Capability of meeting or exceeding current and future needs and requirements of U.S. Communities and U.S. Communities members.
4. Qualifications and Experience; (including past performances, administration, management capabilities).
5. Range and quality of Products and Services offerings including technological advances, and value added related Services.
6. Proposed Approach and Proposed Solution
7. Proposed Playgrounds per Section 6, Form 4– taking into consideration
  - a. Design
  - b. Quality
  - c. Durability
  - d. Play value
  - e. ADA Accessibility and Inclusivity
  - f. Product warranty
8. Cost effectiveness and Value.
9. Overall ability to perform sales, solutions, and contract support as submitted.
10. Ability to demonstrate Products and Services that meet and/or exceed industry standards accepted by governmental and educational agencies nationally.
11. Financial Qualifications.
12. Company Environmental Initiatives.
13. MWBE, and other factors specified in this Request for Proposals.
14. References.

**3.9 Qualifications and Experience**

Companies will be evaluated on the background and experience information provided in Section 6, Form 6, and Section 7, Company Worksheet and Company Information for National Program Consideration.

**3.10 Project Approach / Proposed Solution.**

Companies will be evaluated based upon their understanding, experience and qualifications in performing the same or substantially similar Services, as reflected by its experience in performing such Services. The evaluation will include references regarding work for organizations with needs similar to the City's, and the feasibility of the Company's approach for the provision of the Services.

**3.11 Cost Effectiveness and Value.**

Under this criterion, Proposals will be compared in terms of the most reasonable and effective pricing options. The Evaluation Committee will also take into consideration any indirect costs associated with the Services.

**3.12 MWSBE Subcontractor Utilization.**

The City maintains a strong commitment to the inclusion of MWSBEs in the City's contracting and procurement process. For the purposes of this RFP, the City will consider a Company's MWSBE certification and/or MWSBE subcontracting inclusion

efforts. To count towards a Department MWSBE Goal, MWSBE certified Companies and/or their MWSBE subcontractors must meet the following certification criteria prior to Proposal submission:

- Be designated as a City certified SBE; and/or
- Be designated as a City registered MBE or WBE

MWSBE utilization is only one (1) criterion considered in the totality of all criteria listed in this Section 3.

**3.13 Acceptance of the Terms of the Contract.**

The City will evaluate the Proposals for compliance with the terms, conditions, requirements, and specifications stated in this RFP including the sample contract language provided in Exhibit A. Regardless of exceptions taken, Companies shall provide pricing based on the requirements and terms set forth in this RFP. Exceptions shall be identified in accordance with Sections 2.6.12 and 5.1.5 of this RFP.

**3.14 Contract Award by City Council.**

As soon as practical after opening the Proposals, the name of the apparent successful Company will be submitted to the Charlotte City Council for final approval of award. If approved by the Council, the Procurement Management Division will provide Contract documents to the Company. In the event the Council approval is not received within one hundred eighty (180) calendar days after opening of the Proposals, the Company may request that it be released from the Proposal.

**3.15 Vendor Inclusion.**

The City's vendor management philosophy supports a fair, open, and inclusive process that offers the same access and information to all Companies. Although Companies are not required to be registered in the City's vendor registration system prior to submitting a Proposal, in order to execute a contract with the City and receive payment from the City, all Companies must register with the City's vendor registration system.

Your registration provides the City with baseline information for your company including location, contact and demographic information, as well as your areas of expertise with specific commodity and/or service descriptions. You will also have the opportunity to complete any applicable certifications if your company desires to establish itself as an SBE, MBE, or WBE. The link below will provide you with the opportunity to complete your registration on-line with the City.

<http://charlottenc.gov/vendors>

**4 SCOPE OF SERVICES.**

**4.1 General Scope.**

The intent of this RFP is to award a Contract(s) to one or more Companies offering and demonstrating the best overall solution that meets or exceeds the requirements of this RFP and future various Playground Equipment, Outdoor Fitness Equipment, Surfacing, Site Accessories and Related Products and Services needs of the City and Participating Public Agencies.

Participating Public Agencies may have additional specific requirements that might not be a requirement of the Lead Public Agency. The Proposer agrees to provide additional information or documentation to Participating Public Agencies as may be required per the Master Intergovernmental Cooperative Purchasing Agreement (between the Lead Public Agency and the Participating Public Agency).

**4.2 Product Standards and Guidelines.**

It is essential that all Playground Equipment, Outdoor Fitness Equipment, Site Accessories, Surfacing, and Related Products and Services be in compliance with all current and applicable Consumer Product Safety Commission (CPSC), Americans with Disabilities Act (ADA) and ADA Accessibility Guidelines (ADAAG), and ASTM Standards and other applicable laws and regulations in the state of North Carolina or in accordance with the laws and applicable purchasing policies of the State and locality where the Participating Public Agencies exists.

Manufacturers must be a member of the International Play Equipment Manufacturers Association (IPEMA) and ISO 9001 and 14001 certified. All equipment must be IPEMA Certified and meet all current American Society of Testing and Materials (ASTM), Consumer Product Safety Commission (CPSC), and IPEMA standards.

**4.2.1 American Society for Testing and Materials (ASTM):**

ASTM-F1487- 11	Standard Consumer Safety Performance Specification for Playground Equipment for Public use.
ASTM-F1292-13	Standard Specification for Impact Attenuation of Surface Systems within the Use Zone of Playground Equipment.
ASTM 1951-09	Standard Specifications for Determination of Surface Systems Under and Around Playground Equipment.
ASTM F2049-11	Fences/Barriers for Public, Commercial, and Multifamily Residential Use Outdoor Play Areas.
ASTM F2075	Standard Specifications for Engineered Wood Fiber for Use as a Playground Safety Surface and Around Playground Equipment.

**4.2.2 Printed Handbook for Public Playground Safety (CPSC)**

Equipment must meet all guidelines stated in the “Handbook for Public Safety” published by the Consumer Product Safety Commission. Copies of publication No. 325 may be obtained from U.S. Consumer Product Safety Commission, Washington, DC 20207.

**4.2.3 International Play Equipment Manufacturers Association (IPEMA)**

IPEMA provides third-party Product Certification services for U.S. and Canadian public play equipment and U.S. public play surfacing materials. The services provide for the validation of a participant’s certification of conformance to the standards referenced above. Both certifications are administered by Detroit Testing Laboratory, Inc. For more information on certification and membership, visit IPEMA’s website at: [www.ipema.org](http://www.ipema.org).

**All equipment must be IPEMA Certified. Certification must be included with your proposal submission.**

**4.3 Environmental Purchasing Requirements.**

Each Manufacturer must provide documentation of their respective company’s environmental sustainability policies, measures, and initiatives with their Proposal response per Section 2.6.15 and Section 7 - U.S. Communities Requirements of this RFP.

**4.4 New Products and Services.**

New Products and Services may be added to the resulting Contract(s) during the term of the Contract by written amendment, to the extent that those Products and Services are within the scope of this RFP and include, but will not be limited to, new Product added to the Manufacturer’s listing offerings, and services which reflect new technology and improved functionality. All requests are subject to review and approval of the City of Charlotte.

**4.5 Replacement Parts.**

Company must stock replacement parts for a minimum of 15 years on all play systems and provide parts within two (2) weeks (14 calendar days) from the time an order is placed by the Participating Public Agency.

**4.6 Surfacing Material.**

Surfacing Material must meet all guidelines stated in the Handbook for Public Playground Safety, and most current versions of ASTM-F1292-13, F2075-15, F3012-14, and all other applicable ASTM standards and guidelines as certified by an independent laboratory conforming to IPEMA safety standards as identified for the playground industry.

**4.7 Installation.**

All Products provided under this Contract that require assembly and installation should be performed by the awarded manufacturers’ certified installers. Company must provide the names and addresses of each certified installer/subcontractor by geographical area.

All work must be performed according to the standards established by the terms, specifications, drawings, and construction notes for each project, and meet manufacturer's specifications and industry standards. It shall be the obligation of the Installer to obtain clarification from the Project Coordinator concerning questions or conflicts in the specifications, drawings and construction notes in a timely manner as to not delay the progress of the work.

**4.8 Design.**

Companies must have the capability to recommend and design appropriate play systems/structures to fit the need of the site for age groups to be determined by Participating Public Agency. Company must provide drawings (plan and elevation) of all pertinent aspects of the play equipment and its method of connection to the work. Final playground layout drawings shall be to scale and legible and must show location of play equipment and dimensions of use zones. All designs shall indicate ADA accessible routes, and percentage of ADA accessible components.

**4.9 Project Management.**

Companies must have the ability to provide project management services to help Participating Agencies complete their projects on-time and within budget.

**4.10 Safety.**

All Companies and installers or subcontractors performing services for Charlotte-Mecklenburg are required and shall comply with all Occupational Safety and Health Administration (OSHA), State and County Safety and Occupational Health Standards and any other applicable rules and regulations. The Company and subcontractors shall be held responsible for the safety of their employees and any unsafe acts or conditions that may cause injury or damage to any persons or property within and around the work site area under this contract.

**4.11 Literature and Catalogs.**

The successful Companies will be required to furnish and/or update all price lists, listings, color charts and other literature as requested within fifteen (15) days after notification of award. All catalogs may be electronic versions.

**4.12 Warranty.**

Proposals should address each of the following:

1. Applicable warranty and/or guarantees of equipment and installations including any conditions and response time for repair and/or replacement of any components during the warranty period.
2. Warranty period start date. The City desires the warranty start at the time of substantial completion.
3. Availability of replacement parts.
4. Life expectancy of equipment under normal use.
5. Detailed information as to proposed return policy on all equipment.

**4.13 Lead Time and Delivery.**

1. Company must provide a four (4) week lead time on standard product, unlimited configurations, with no up charge.
2. Deliveries may be made typically between the hours of 8:30 a.m. and 3:30 p.m., local time, on regular business days unless other arrangements have been made.

Delivery location shall be stated on each purchase order issued by Participating Agencies.

3. The Company will ensure that all items are delivered fully assembled or assembled by vendor or its designated subcontractor on site as may be designated by the Participating Public Agency. The Company will assure that all items are packed in accordance with prevailing commercial practices and delivered and assembled and installed in the first class condition.
4. When the purchase order calls for delivery to a specific location (other than door delivery) the vendor will deliver in accordance with the delivery instructions provided by the Participating Public Agency and shall perform inside delivery, assembly, set in place in proper location, make ready for use and remove all debris.
5. The Company shall authorize immediate replacement of any item that has been damaged in transit.
6. If deliveries are required in the evenings or weekends, or designated holidays, special installation charges will be negotiated. It is expected that the pricing will be fair and reasonable based upon specific requirements.

**4.14 Optional Work.**

Company will be required to provide quotations on a case-by-case basis for optional related work such as, but not limited to, removal and/or reinstallation of Playground & Fitness Equipment, timbers, and fencing as may be required to provide a full turnkey solution to Participating Public Agencies.

**4.15 Material Specifications.**

Equipment material specifications may vary between cities, counties, schools and states. Each Participating Entity will provide required specifications to include, but not be limited to, acceptable material, finish, diameters, thickness, gage, and angles of all components when placing orders or as necessary.

**4.16 Additional Requirements.**

Successful Companies may be required and agrees to comply with additional state, or local laws and policies of the individual Participating Public Agencies.

**4.17 Performance Bond.**

Successful Companies may be required to provide a performance bond as required by Participating Public Agencies for each project as required by local or state laws and policies.

**4.18 Reports.**

Successful Companies must maintain all records in compliance with federal and state regulations. A statistical report and an annual tabulated report must be submitted electronically to the Lead Public Agency upon request.

**4.19 Pricing.**

**4.19.1** Companies must submit a cost proposal fully supported by data adequate to establish the reasonableness of the proposed fee. One (1) firm fixed percentage discount off of a verifiable list price for each category (defined in

## Section 4

### Scope of Services

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Section 1.3): 1) Playground Equipment (including components, replacement parts); 2) Outdoor Fitness Equipment; 3) Site Accessories; 4) Surfacing Materials; and 5) all other related Products (Shade Structures, Skate Parks, and other categorized Products); and 6) Services offered by the Company, for the life of the contract is preferred.

Prices must include manufacturer mark up, profit, item cost and storage to allow each customer the ability to calculate and verify discount. All manufacturer price lists must be identified in the Proposal response.

Proposals must include an itemized list of any Products and Services that the Company intends to include in the Master Agreement and assume responsibility for as prime contractor, but are offered by the individual authorized distributors and not included in the Company's catalog. The list must identify the distributors name and location that offers each product and service included. The successful Company shall be the prime contractor and remain solely responsible for contractual performance, and reporting, per Section 2.6.7 of this RFP for any Products and Services offered by the authorized distributor.

Proposals shall not include Products and Services the Company does not intend to offer, or take responsibility for, as prime contractor.

**4.19.2 Volume Discounts:** Please include any volume discounts offered to the Lead Public Agency and Participating Public Agencies.

**4.19.3 Rebates:** Please include any rebates offered to Lead Public Agency and Participating Public Agencies..

**4.19.4 Product, Design and Price Comparison.**

For comparison purposes only, the Company must provide the following information for the three (3) sample playground designs included in Section 6, Form 4:

1. Cost breakdown of all components using proposed discounts and list prices;
2. Manufacturer Price List ID
3. Three dimensional drawings
4. Number of kids that can use the playground;
5. Total number of play components:
  - Number of ground level components
  - Number of accessible ground level components
  - Number of elevated components
  - Number of accessible elevated components
6. Play Structure Size
7. Deck Sizes
8. Diameter of Uprights
9. Color options
10. Minimum time needed from date of design to delivery of equipment.

**4.19.5 Installation.**

Proposal responses must include a defined installation fee program. If a percentage of total dollar amounts of each order are proposed, the Company must submit one (1) fixed percentage for all installation services for all Participating Public Agencies, regardless of location, for the life of the contract.

**4.19.6 Shipping and Delivery.**

Companies must include a defined shipping program with their Proposal responses. If shipping is charged separately, only the actual cost of the freight may be added to an invoice. Shipping charges calculated as a percentage of the product price **cannot be used**.

1. Unless specifically stated otherwise in the “Shipping Program” included in the Company’s Proposal response, all prices quoted must be F.O.B. destination with freight prepaid by the Company.
2. Additional costs for expedited deliveries may be added.
3. Selection of a carrier for shipment will be the option of the Participating Public Agency paying for said shipping.

**4.20 Price Adjustments.**

**All proposed pricing shall remain firm for the first year of the subsequent Contract (through June 30, 2018).** Companies may request price increases for consideration at least sixty (60) days prior to each anniversary of the Contract effective date. All requests must be submitted in writing to City of Charlotte Procurement Management along with documentation of bona fide materials and labor increases for the cost of Products. No adjustments shall be made to compensate a Company for inefficiency in operation or for additional profit. Price decreases shall be accepted at any time during the term of the contract.

**4.21 References.**

Proposals must include a minimum of five (5) customer references (see Section 6, Form 7) that Company has provided products and services similar to those outlined in this RFP.

**4.22 Prevailing Wages.**

Company must comply with the prevailing wage requirements of each state. Please include any exceptions to this requirement in your proposal response, per Section 2.6.12 of this RFP.

**5 PROPOSAL CONTENT AND FORMAT.**

The City desires all Proposals to be identical in format in order to facilitate comparison. While the City's format may represent departure from the Company's preference, the City requires strict adherence to the format. The Proposal will be in the format described in the Checklist included at the front of this RFP (page i).

The City encourages Proposals to be compatible with the City's waste reduction goals and policies. Therefore, it is desired that all responses meet the following requirements:

- All Proposals be printed 8 1/2" x 11" format with all standard text no smaller than eleven (11) points;
- All copies be printed double-sided;
- All copies be printed on recycled paper (at least 30% post-consumer recovered material and at least 30% total recovered material);
- Unless necessary, all Proposal originals and copies should minimize or eliminate use of non-recyclable or non-reusable materials such as 3-ring binders, plastic report covers, plastic dividers, vinyl sleeves, and GBC binding. Glued materials, paper clips, and staples are acceptable; and
- Materials must be submitted in a format that allows for easy removal and recycling.

**Proposals must also include ten (10) flash drives including the entire Proposal in a searchable format such as MS Word or Adobe Acrobat.**

**5.1.1 Cover Letter.**

The Proposal must include a letter of transmittal attesting to its accuracy, signed by an individual authorized to execute binding legal documents. The cover letter shall provide the name, address, telephone and facsimile numbers of the Company along with the name, title, address, email address, telephone and facsimile numbers of the executive that has the authority to contract with the City. The cover letter shall present the Company's understanding of the Project and a summary of the approach to perform the Services.

**5.1.2 Executive Summary.**

The Company shall submit an executive summary, which outlines its Proposal, including the proposed general management philosophy. The executive summary shall, at a minimum, include an identification of the proposed project team, responsibilities of the project team, and a summary of the proposed Services. This section should highlight aspects of this Proposal, which make it superior or unique.

**5.1.3 Required Forms and Certifications.**

To be deemed responsive to this RFP, Companies must complete, in detail, all Proposal Forms included in Section 6, and all certifications requested in Section 4.

**5.1.4 U.S. Communities Requirements.**

To be deemed responsive to this RFP, Companies must complete, in detail, all requested information in Section 7.

**5.1.5 Exceptions to the RFP.**

Exceptions must be submitted in accordance with Section 2.6.12 of this RFP. If exceptions are not identified in your Proposal they may not be considered during Contract negotiation and could result in Proposal being rejected from further

## **Section 5**

### **Proposal Content and Format**

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consideration. If legal counsel needs to review the Sample City Contract prior to signature, reviews must be completed before your Proposal is submitted.

The City intends to enter into a City-drafted Contract with the successful Company that contains the terms and conditions set forth in Exhibit A (“Sample Terms”). The number and extent of any exceptions and proposed additions to the Sample Terms will be one of the City’s evaluation criteria.

Accordingly, each Company must state specifically in its Proposal any exceptions to the Sample Terms, or any such exceptions will be waived. Any Company-proposed additional terms or conditions must also be included in the Proposal, and the City reserves the right to refuse consideration of any terms not so included. Any proposed changes to the Sample Terms after tentative contract award may constitute a material change to the Company’s Proposal and be grounds for revoking the award.

Notwithstanding the foregoing, the City reserves the right to modify the Sample Terms prior to or during contract negotiations if it is in the City’s best interest to do so.

**REQUIRED FORM 1 - RFP ACKNOWLEDGEMENT**

**Request For Proposal # 269-2017-028**

**Playground Equipment, Outdoor Fitness Equipment, Site Accessories, Surfacing, and Related Products and Services**

The Company hereby certifies receipt of the Request for Proposals for the City of Charlotte, North Carolina RFP #269-2017-028, Playground Equipment, Outdoor Fitness Equipment, Site Accessories, Surfacing, and Related Products and Services. This form should be completed upon receipt of the City's Request for Proposals and faxed in time for the City to receive it by or before **FEBRUARY 1, 2017**. Failure to submit this form by the designated date shall not preclude the Company from submitting a proposal. Please fax or email the completed Request for Proposals Acknowledgement Form to the attention of:

Karen Ewing  
Deputy Chief Procurement Officer  
Procurement Management  
Fax: 704.632.8254  
Email: [kewing@charlottenc.gov](mailto:kewing@charlottenc.gov)

Date: \_\_\_\_\_

Authorized Signature: \_\_\_\_\_

Title: \_\_\_\_\_

Company Name: \_\_\_\_\_

Contact Name: \_\_\_\_\_

Contact E-mail address: \_\_\_\_\_

Please check the appropriate space below and provide the requested information:

\_\_\_\_\_ **We plan to attend the Pre-Proposal Conference and plan on submitting a Proposal**

Indicate number of attendees: \_\_\_\_\_

\_\_\_\_\_ **We do not plan to attend the Pre-Proposal Conference but plan on submitting a Proposal**

Reason: \_\_\_\_\_

\_\_\_\_\_ **We do not plan to attend the Pre-Proposal Conference and do not plan on submitting a Proposal**

Reason: \_\_\_\_\_

**REQUIRED FORM 2 - ADDENDA RECEIPT CONFIRMATION**

**RFP # 269-2017-028**

**Playground Equipment, Outdoor Fitness Equipment, Site Accessories, Surfacing, and Related Products and Services**

Please acknowledge receipt of all addenda by including this form with your Proposal. All addenda will be posted to the NC IPS website at [www.ips.state.nc.us](http://www.ips.state.nc.us) and <http://charlottenc.gov/DoingBusiness/Pages/ContractOpportunities.aspx>.

**ADDENDUM #:**

**DATE ADDENDUM  
DOWNLOADED:**

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I certify that this proposal complies with the Specifications and conditions issued by the City except as clearly marked in the attached copy.

\_\_\_\_\_  
(Please Print Name)

\_\_\_\_\_  
Date

\_\_\_\_\_  
Authorized Signature

\_\_\_\_\_  
Title

\_\_\_\_\_  
Company Name

**REQUIRED FORM 3 - PROPOSAL SUBMISSION FORM**

**RFP # 269-2017-028**

**Playground Equipment, Outdoor Fitness Equipment, Site Accessories, Surfacing, and Related Products and Services**

This Proposal is submitted by:

Company Name: \_\_\_\_\_

Representative (printed): \_\_\_\_\_

Address: \_\_\_\_\_

City/State/Zip: \_\_\_\_\_

Email address: \_\_\_\_\_

Telephone: \_\_\_\_\_

(Area Code) Telephone Number

Facsimile: \_\_\_\_\_

(Area Code) Fax Number

The representative signing above hereby certifies and agrees that the following information is correct:

1. In preparing its proposal, the Company has considered all proposals submitted from qualified, potential subcontractors and Companies; and has not engaged in or condoned prohibited discrimination. For purposes of this Section, *discrimination* means discrimination in the solicitation, selection, or treatment of any subcontractor, vendor or supplier on the basis of race, ethnicity, gender, age or disability or any otherwise unlawful form of discrimination. Without limiting the foregoing, *discrimination* also includes retaliating against any person or other entity for reporting any incident of *discrimination*.
2. Without limiting any other provision of the solicitation for proposals on this project, it is understood and agreed that, if this certification is false, such false certification will constitute grounds for the City to reject the bid submitted by the Proposer on this Project and to terminate any contract awarded based on such bid.
3. As a condition of contracting with the City, the Company agrees to maintain documentation sufficient to demonstrate that it has not discriminated in its solicitation or selection of subcontractors. The Company further agrees to promptly provide to the City all information and documentation that may be requested by the City from time to time regarding the solicitation and selection of subcontractors. Failure to maintain or failure to provide such information constitutes grounds for the City to reject the bid submitted by the Company or terminate any contract awarded on such bid.

**Section 6**  
**Required Forms**

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4. As part of its bid or proposal, the Bidder or Proposer shall provide to the City a list of all instances within the past ten years where a complaint was filed or pending against Bidder or Proposer in a legal or administrative proceeding alleging that Bidder or Proposer discriminated against its subcontractors, vendors or suppliers, and a description of the status or resolution of that complaint, including any remedial action taken.
5. The information contained in this Proposal or any part thereof, including its Exhibits, Schedules, and other documents and instruments delivered or to be delivered to the City, is true, accurate, and complete. This Proposal includes all information necessary to ensure that the statements therein do not in whole or in part mislead the City as to any material facts.
6. It is understood by the Company that the City reserves the right to reject any and all Proposals, to make awards on all items or on any items according to the best interest of the City, to waive formalities, technicalities, to recover and re-bid this RFP.
7. This Proposal is valid for one hundred and eighty (180) calendar days from the Proposal due date.

I, the undersigned, hereby acknowledge that my company was given the opportunity to provide exceptions to the Sample Terms as included herein as Exhibit A. As such, I have elected to do the following:

Include exceptions to the sample contract in the following section of my Proposal: \_\_\_\_\_

Not include any exceptions to the Sample Terms.

**Representative (signed):** \_\_\_\_\_

**REQUIRED FORM 4 - PRICING WORKSHEET**

**RFP # 269-2017-028**

**Playground Equipment, Outdoor Fitness Equipment, Site Accessories, Surfacing, and Related Products and Services**

Regardless of exceptions taken, Companies shall provide pricing based on the requirements and terms set forth in this RFP. Cost must be in United States dollars rounded to the nearest quarter of a dollar. **If there are additional costs associated with the Services, please add to this chart.**

Proposal must include electronic copies (on flash drive) of manufacturer’s listings, a published wholesale or retail price list, which is widely distributed to the marketplace, or other product literature which describes all the products being offered.

The price schedules must be a single percentage discount from published retail price list, or other verifiable published price list. Published price lists must be submitted annually and the same percentage of discount shall apply for the life of the contract. Pricing must be provided for every Product and Service included in your Proposal. Cost must be in United States dollars rounded to the nearest quarter of a dollar.

1. Please provide your verifiable price list(s):

CATEGORY	VERIFIABLE PRICE LIST NUMBER/DATE
Playground Equipment (i.e. themed systems, stand-along activities, system components)	
Outdoor Fitness Equipment (i.e. challenge courses, strength building, multigenerational fitness, precision timing systems)	
Site Accessories (i.e. Benches, Picnic tables, Planters, Litter receptacles, Bike Racks)	
Surfacing (i.e. Pour in Place Rubber, Wood fiber, etc.)	
Related Products (i.e. Shade Structures skate parks, water parks)	
Services (i.e. Installation, Design, Layout, Repair, Maintenance, Removal, Disposal)	

2. Please provide your percentage discount off retail price for all products included each of the following categories. Please use additional sheets and list all categories that you are offering for this contract.

CATEGORY	PERCENTAGE (%) DISCOUNT
Playground Equipment (i.e. themed systems, stand-along activities, system components)	
Outdoor Fitness Equipment (i.e. challenge courses, strength building, multigenerational fitness, precision timing systems)	
Site Accessories (i.e. Benches, Picnic tables, Planters, Litter receptacles, Bike Racks)	

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Surfacing (i.e. Pour in Place Rubber, Wood fiber, etc.)	
Related Products (i.e. Shade Structures skate parks, water parks)	
Services (i.e. Installation, Design, Layout, Repair, Maintenance, Removal, Disposal)	

3. Company must provide the following for each of the three (s) sample playground designs **(FOR EVALUATION AND PRICE COMPARISON ONLY):**

- 1) 3 dimensional Drawings
- 2) Number of kids that can use the playground;
- 3) Total number of play components:
  - a. Number of ground level components
  - b. Number of accessible ground level components
  - c. Number of elevated components
  - d. Number of accessible elevated components
- 4) Play Structure Size
- 5) Deck Sizes
- 6) Itemized costs using proposed discounts and list prices to include all applicable costs, including, but not limited to:
  - a) Each Structure or component (i.e. playground, site Accessories, shade, receptacles, etc.)
  - b) Design Services
  - c) Surfacing
  - d) Installation
  - e) Any other products or services that is associated with this sample.
- 7) Diameter of Uprights
- 8) Color options
- 9) Minimum time needed from date of design to delivery of equipment
- 10) **DO NOT** include freight in sample Playground pricing.

### **DESIGN 1:**

**Site Dimensions:** 50 ft. x 125 ft.  
**Budget:** \$225,000 (must include all design, equipment, and installation costs)  
**Ages:** Separate play area for 2 to 5 years old  
 Separate play area for 5-12 years old  
**Design:** Bright, Colorful Playgrounds with Roofs

Playground will be serving a community with physical disabilities children. The Playgrounds design must include the minimum following components:

### **Inclusive play components that:**

- Encourage development of sensory processing including proprioceptive and vestibular systems.
- Encourage social interaction within the playground.

## Section 6 Required Forms

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- Provide opportunities for spinning, sliding, rocking and swinging incorporated with heights, motions and body positions.
- Provide opportunities for climbing, crawling, bouncing and balancing.
- Stimulate sensory experiences through tactile, auditory and visual components and events.
- Provide multiple levels of challenge (easy, moderate, difficult of the same type of activity).
- Are easy to transfer to and from a mobility device.
- Ensure a child in mobility device is in the middle of play.
- Requires limited provision of ramps.

### 2-5 Year Old Structure:

- One (1) Early Childhood (tot) Swings with sides
- One (1) Slide - 4 ft. maximum height
- One (1) Climber
- One (1) Crawl Tunnel
- One (1) Sand Box

### 5-12 Year Old Structure:

- One (1) Double Slide – 6 ft. maximum height
- One (1) Spiral Slide
- One (1) Net Climber
- One (1) Rock Climber
- Two (2) Wheel chair accessible ramps
- One (1) Bridge

### Surfacing:

- Bonded rubber fall surface to include **sub-base** (granite screening) and geo fabric.

### Site Accessories:

- Four (4) 8ft Heavy Duty Picnic Tables with steel frame
- One (1) Sway Bench (12-gauge punched steel with 3.5” diameter posts).
- Three (3) Trash Receptacles
- Two (2) Heavy Duty 6-foot Benches with back, and armrest. Placed with good sightlines for monitoring children.

### Design 2:

Site Dimensions: 45ft. x 65 ft.  
Budget: \$85,000 (must include all design, equipment, and installation costs)  
Ages: 5-12 years old  
Design: Nature Themed with Neutral Colors

- One (1) Double Slide – 8 ft. maximum height
- One (1) Tube Slide
- Two (4) Climbers

## Section 6 Required Forms

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- Four (4) Swings with a minimum of one (1) accessible swing.
- One (1) Balance Beam
- One (1) Transfer Station
- One (1) Bridge
- One (1) Zip-line

Surfacing:

Minimum of 12 inches compacted wood safety surfacing.

**Design 3:**

Site Dimensions: 30 ft. x 45 ft.

Budget: \$45,000 (must include all design, equipment, and installation costs)

Ages: 13+ years old

Design: Adult Outdoor Fitness

Comprehensive fitness package that offers flexibility, balance, strength, and low-impact aerobic workout activities, and includes the minimum following elements:

- One (1) Wobble Board
- One (1) Captains Chair
- One (1) Chest Press
- One (1) Lat Pull Down and Leg Press
- One (1) Trapeze Rack
- One (1) Recumbent Cycle
- One (1) Heavy Duty Bicycle Rack

Surfacing:

No Surfacing required.



**REQUIRED FORM 5 – M/W/SBE UTILIZATION**

**RFP # 269-2017-028**

**Playground Equipment, Outdoor Fitness Equipment, Site Accessories, Surfacing, and Related Products and Services**

The City maintains a strong commitment to the inclusion of MWSBEs in the City’s contracting and procurement process when there are viable subcontracting opportunities. Companies must submit this form with their proposal outlining any supplies and/or Services to be provided by each City certified SBE, and/or City registered MBE and WBE for the Contract. The City recommends you exhaust all efforts when identifying potential MWSBEs to participate on this RFP.

Please indicate if **your company** is any of the following:

\_\_\_ MBE    \_\_\_ WBE    \_\_\_ SBE    \_\_\_ None of the above

If your company has been certified with any of the agencies affiliated with the designations above, indicate which agency, the effective and expiration date of that certification below:

Agency Certifying: \_\_\_\_\_ Effective Date: \_\_\_\_\_ Expiration Date: \_\_\_\_\_

Identify outreach efforts that *were employed* by the firm to maximize inclusion of MWSBEs to be submitted with the firm’s proposal (attach additional sheets if needed):

\_\_\_\_\_

\_\_\_\_\_

Identify outreach efforts that *will be employed* by the firm to maximize inclusion during the contract period of the Project (attach additional sheets if needed):

\_\_\_\_\_

\_\_\_\_\_

List below all **MWSBEs** that you intend use on this Contract:

Subcontractor Name	Description of work or materials	Indicate either “M”, “S”, and/or “W”	City Vendor #

**Representative (signed):** \_\_\_\_\_

\_\_\_\_\_  
Date

\_\_\_\_\_  
Representative Name

**REQUIRED FORM 6 – COMPANY’S BACKGROUND RESPONSE**

**RFP # 269-2017-028**

**Playground Equipment, Outdoor Fitness Equipment, Site Accessories, Surfacing, and Related Products and Services**

Companies shall complete and submit the form below as part of their response to this RFP. Additional pages may be attached as needed to present the information requested.

Question	Response
Company’s legal name	
Company Location (indicate corporate headquarters and location that will be providing the Services).	
How many years has your company been in business? How long has your company been providing the Services as described in Section 4?	
List any projects or Services terminated by a government entity. Please disclose the government entity that terminated and explain the reason for the termination.	
List any litigation that your company has been involved with during the past two (2) years for Services similar to those in this RFP.	
Provide an overview and history of your company.	
If your company is a subsidiary, identify the number of employees in your company or division and the revenues of proposing company or division.	
Identify any certifications held by your company if you are implementing or reselling another company's Products or Services. Include how long the partnership or certification has been effect.	
Describe your company’s complete corporate structure, including any parent companies, subsidiaries, affiliates and other related entities.	
Describe the ownership structure of your company, including any significant or controlling equity holders.	
Explain how your organization ensures that personnel performing the Services are qualified and proficient.	
If your company has been the subject of a dispute or strike by organized labor within the last five (5) years, please describe the circumstances and the resolution of the dispute.	

**Required form 7 – References  
RFP # 269-2017-028**

**Playground Equipment, Outdoor Fitness Equipment, Site Accessories, Surfacing, and Related Products and Services**

Companies shall complete the form below. The City’s preference is for references from organizations of similar size or where the Company is performing similar Services to those described herein. If such references are not available, individuals or companies that can speak to the Company’s performance are adequate.

<b>Reference 1</b>	
Company Name	
Contact Name	
Phone Number	
<b>Reference 2</b>	
Company Name	
Contact Name	
Phone Number	
<b>Reference 3</b>	
Company Name	
Contact Name	
Phone Number	
<b>Reference 4</b>	
Company Name	
Contact Name	
Phone Number	
<b>Reference 5</b>	
Company Name	
Contact Name	
Phone Number	

**REQUIRED FORM 8 – NON-DISCRIMINATION PROVISION**

**Playground Equipment, Outdoor Fitness Equipment, Site Accessories, Surfacing, and Related Products and Services**

All requests for Bids or Bids issued for City Contracts shall include a certification to be completed by the Bidder or Proposer in substantially the following form:

The undersigned Bidder or Proposer hereby certifies and agrees that the following information is correct:

1. In preparing it's the enclosed Bid or Bid, the Bidder or Proposer has considered all Bids and Bids submitted from qualified, potential subcontractors and Company, and has not engaged in discrimination as defined in **Section 2**.
2. For purposes of this Section, discrimination means discrimination in the solicitation, selection, or treatment of any subcontractor, vendor or supplier on the basis of race, ethnicity, gender, age or disability or any otherwise unlawful form of discrimination. Without limiting the foregoing, discrimination also includes retaliating against any person or other entity for reporting any incident of discrimination.
3. Without limiting any other remedies that the City may have for a false certification, it is understood and agreed that, if this certification is false, such false certification will constitute grounds for the City to reject the Bid or Bid submitted with this certification, and terminate any Contract awarded based on such Bid or Bid It shall also constitute a violation of the City's Commercial Non-Discrimination Ordinance and shall subject the Bidder or Proposer to any remedies allowed thereunder, including possible disqualification from participating in City Contracts or Bid processes for up to two years.
4. As a condition of Contracting with the City, the Bidder or Proposer agrees to promptly provide to the City all information and documentation that may be requested by the City from time to time regarding the solicitation and selection of Company and subcontractors in connection with this solicitation process. Failure to maintain or failure to provide such information shall constitute grounds for the City to reject the Bid or Bid and to any Contract awarded on such Bid or Bid. It shall also constitute a violation of the City's Commercial Non-Discrimination Ordinance, and shall subject the Bidder or Proposer to any remedies that are allowed thereunder.
5. As part of its Bid, or Proposal, the Bidder or Proposer shall provide to the City a list of all instances within the past ten years where a complaint was filed or pending against Bidder or Proposer in a legal or administrative proceeding alleging that Bidder or Proposer discriminated against its subcontractors, vendors or suppliers, and a description of the status or resolution of that complaint, including any remedial action taken.
6. As a condition of submitting a Bid to the City, the Bidder or Proposer agrees to comply with the City's Commercial Non-Discrimination Policy as described in **Section 2**, Article V of the Charlotte City Code, and consents to be bound by the award of any arbitration conducted thereunder.

NAME OF COMPANY: \_\_\_\_\_

BY: \_\_\_\_\_ TITLE: \_\_\_\_\_

SIGNATURE OF AUTHORIZED OFFICIAL: \_\_\_\_\_

DATE: \_\_\_\_\_

**Section 7**  
**Required U.S. Communities Information**

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**COMPANY WORKSHEET FOR NATIONAL PROGRAM CONSIDERATION**

Suppliers are required to meet specific qualifications. Please respond in the spaces provided after each qualification statement below:

- A. Will pricing for all Products/Services offered be the most competitive pricing offered by your organization to Participating Public Agencies nationally?  
YES \_\_\_ NO \_\_\_
- B. Does your company have the ability to provide service to any Participating Public Agencies in the contiguous 48 states and the ability to deliver service in Alaska and Hawaii?  
YES \_\_\_ \*NO \_\_\_  
(\*If no, identify the states where you do not have the ability to provide service to Participating Public Agencies.)
- C. Does your company have a national sales force, dealer network or distributor with the ability to call on Participating Public Agencies in at least 35 U.S. states?  
YES \_\_\_ \*NO \_\_\_  
(\*If no, identify the states where you have the ability to call on Participating Public Agencies.)
- D. Check which applies for your company sales last year in the United States:  
\_\_\_ Sales between \$0 and \$25,000,000  
\_\_\_ Sales between \$25,000,001 and \$50,000,000  
\_\_\_ Sales between \$50,000,001 and \$100,000,000  
\_\_\_ Sales greater than \$100,000,001
- E. Does your company have existing capacity to provide electronic and ecommerce ordering and billing?  
YES \_\_\_ NO \_\_\_
- F. Will your company assign a dedicated Senior Management level Account Manager to support the resulting U.S. Communities program contract?  
YES \_\_\_ NO \_\_\_
- G. Does your company maintain records of your overall Participating Public Agencies' sales that you can and will share with U.S. Communities to monitor program implementation progress?  
YES \_\_\_ NO \_\_\_
- H. Will your company commit to the following program implementation schedule?  
YES \_\_\_ NO \_\_\_
- I. Will the U.S. Communities program contract be your lead public offering to Participating Public Agencies?  
YES \_\_\_ NO \_\_\_

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Submitted by: \_\_\_\_\_

\_\_\_\_\_  
(Printed Name)

\_\_\_\_\_  
(Signature)

\_\_\_\_\_  
(Title)

\_\_\_\_\_  
(Date)

**Section 7**  
**Required U.S. Communities Information**

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**SUPPLIER INFORMATION**

Please respond to the following requests for information about your Company:

**National Commitments**

1. Proposer shall provide a written narrative of your understanding and acceptance of the Company Qualifications Commitments in Section 1.5.

**Company**

1. Provide the total number and location of sales persons employed by your Company in the United States.

*Example:*

NUMBER OF SALES REPRESENTATIVES	CITY	STATE
13	Phoenix	AZ
6	San Francisco	CA
10	Atlanta	GA
12	Boise	ID
6	Lexington	KY
5	New Orleans	LA
3	Philadelphia	PA
	Etc.	Etc.
<b>Total: 366</b>		

2. Please provide a narrative of how these sales people would be used to market the contract to eligible agencies across the country. Please describe what you have in place today and your future plans, if you were awarded the contract.
3. Provide the Company annual sales for 2014, 2015 and 2016 in the United States; Sales reporting should be segmented into the following categories:

<b>SUPPLIER ANNUAL SALES IN THE UNITED STATE FOR 2013, 2014, AND 2015</b>			
Segment	2014 Sales	2015 Sales	2016 Sales
Cities			
Counties			
K-12 (Pubic/Private)			
Higher Education (Public/Private)			
States			
Other Public Sector and Nonprofits			
Federal			
Private Sector			
<b>Total Supplier Sales</b>			

**Section 7**  
**Required U.S. Communities Information**

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4. For the **proposed products and services included in the scope of your response**, provide annual sales for 2014, 2015 and 2016 in the United States. Sales reporting should be segmented into the following categories:

<b>SUPPLIER ANNUAL SALES IN THE UNITED STATE FOR 2013, 2014, AND 2015</b>			
<b>Segment</b>	<b>2014 Sales</b>	<b>2015 Sales</b>	<b>2016 Sales</b>
Cities			
Counties			
K-12 (Pubic/Private)			
Higher Education (Public/Private)			
States			
Other Public Sector and Nonprofits			
Federal			
Private Sector			
<b>Total Supplier Sales</b>			

5. Provide a list of your Company’s ten largest public agency customers, including contact information.

**Distribution**

1. Describe how your company proposes to distribute the Products nationwide.
2. Identify all other companies that will be involved in processing, handling or shipping the Product to the end user.
3. Provide the number, size and location of your company’s distribution facilities, warehouses and retail network as applicable.
4. Provide the number and location of support centers (if applicable).
5. If applicable, describe your company’s ability to do business with manufacturer/dealer/distribution organizations that are either small or MWBE businesses as defined by the Small Business Administration.
  - a. If applicable, describe other ways your company can be sensitive to a Participating Public Agency’s desire to utilize local and/or MWBE companies, such as number of local employees and offices in a particular geographic area, companies your firm is using that may be local (i.e. local delivery truck company), your company’s diversity of owner employees, etc.
  - b. If applicable, provide details on any products or services being offered by your company where the manufacturer or service provider is either a small or MWBE business as

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defined by the Small Business Administration. Provide product/service name, company name and small/MWBE designation.

#### **Marketing**

1. Outline your company's sales and marketing plan for marketing the Products to eligible agencies nationwide.
2. Explain how your company will educate its national sales force about the Master Agreement.
3. Explain how your company will market and transition the Master Agreement into the primary offering to Participating Public Agencies. How will your organization differentiate the new agreement from existing contracts you may have today?

#### **National Staffing Plan**

1. Please identify the key personnel who will lead and support the implementation period of the contract outlined in Section One, New Supplier Implementation Checklist, along with the amount of time to be devoted to implementation.
2. Identify the key personnel who are to be engaged in this contract throughout the term of the contract, including each of the roles described below:

<u>Role</u>	<u>Description of Role</u>	<u>Person Responsible</u>	<u>Time Commitment (%)</u>
Executive Sponsor	Responsible for the corporate commitment. Works with Supplier Manager.		
National Account Manager	Responsible for sales efforts and training of sales people across the country. Works daily with Program Managers and Supplier Manager.		
Lead Referral Manager	Responsible for distributing leads generated through the USC website.		
Marketing Lead	Responsible for all marketing efforts. Works with USC marketing regularly.		
IT Lead	Responsible for building USC landing page for supplier.		

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Reporting Lead	Responsible for providing monthly reports to USC.		
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3. Provide an organizational chart of your company.
4. Submit the a bio for each of the below personnel:
  - a. The person your company proposes to serve as the National Accounts Manager,
  - b. Each person that will be dedicated full time to U.S. Communities account management, and
  - c. Key executive personnel that will be supporting the program.

**Products, Services and Solutions**

1. Provide a description of the Products, Services and Solutions to be provided by the major product category set forth in Section Five of the RFP. The primary objective is for each Supplier to provide its complete product, service and solutions offerings so that Participating Public Agencies may order a range of product as appropriate for their needs.
2. State your normal delivery time (in days) and any options for expediting delivery.
3. State backorder policy. Do you fill or kill order and require Participating Public Agency to reorder if item is backordered?
4. State restocking fees and procedures for returning products.
5. Specify guaranteed fill rate by product category specified in Section Five.
6. Describe any special programs that your company offers that will improve customers' ability to access Products, on-time delivery or other innovative strategies.
7. Describe the capacity of your company to broaden the scope of the contract and keep the product offerings current and ensure that latest products, standards and technology for Playground Equipment, Outdoor Fitness Equipment, Surfacing, Site Accessories and Related Parts and Services.

**Qualifications, Experience and Project Management Capabilities**

1. Identify your company's authorized distributors and installers by U.S. state;
2. Identify your company's bonding capacity on a national basis (if applicable);
3. List the states where the bidder is licensed to do business (if applicable);
4. List the states where the bidder or sub-contractor is licensed to do business (if applicable);

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5. List the state construction licenses held, either directly by the bidder or a by a qualified distributor that has been actively and continuously involved with manufacturer (if applicable);

#### **Administration**

1. Describe your company's normal order processing procedure from point of customer contact through delivery and billing. Additionally, please provide the following:
  - a. In what formats do you accept orders (telephone, ecommerce, etc.)?
  - b. Please state if you use a single system or platform for all phases of ordering, processing, delivery and billing.
2. State which forms of ordering allow the use of a procurement card and the accepted banking (credit card) affiliation.
3. Describe your company's ecommerce capabilities:
  - a. Include details about your company's ability to create punch out sites and accept orders electronically (cXML, OCI, etc.).
  - b. Provide detail on where your company has integrated with a public agency's ERP (Oracle, Infor Lawson, SAP, etc.) system in the past and include some details about the resources you have in place to support these integrations. List, by ERP provider, the following information: name of public agency, ERP system used, "go live" date, net sales per calendar year since "go live", and percentage of agency sales being processed through this connection.
4. Describe any existing multi-state cooperative purchasing programs, including the entity's name(s), contact person(s), contact information, contract term (including contract options) and annual volume by year for each of the last three years.
5. Describe your ability to provide customized reports (i.e. commodity histories, purchase histories by department, green spend, etc.) for each Participating Public Agency.

#### **Environmental**

1. Provide a brief description of any company's environmental initiatives, including your company's environmental policies and/or strategies, your investments in being an environmentally preferable product leader, and any resources dedicated to your environmental strategy, including staff.
2. Describe your company's process for defining, verifying, and labeling green/sustainable products and services in your offering. Explain how you help public agencies navigate toward the green products in your offering through website filters, keyword searches, displaying logos, etc.

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3. Please indicate if you have any products in your offering that have any third-party environmental certifications.
4. What percentage of your offering is environmentally preferable and what are your plans to improve this offering?

**Financial Statements**

1. Submit your current Federal Identification Number and latest Dun & Bradstreet report.
2. Please include an audited income statement and balance sheet from the most recent reporting period in your proposal.

**Additional Information**

Please use this opportunity to describe any/all other features, advantages and benefits of your organization that you feel will provide additional value and benefit to a Participating Public Agency.

**Section 7**  
**Required U.S. Communities Information**

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**ADMINISTRATION AGREEMENT**

This ADMINISTRATION AGREEMENT (“Agreement”) is made as of \_\_\_\_\_, by and between U.S. COMMUNITIES GOVERNMENT PURCHASING ALLIANCE (“U.S. Communities”) and \_\_\_\_\_ (“Supplier”).

**RECITALS**

WHEREAS, \_\_\_\_\_ (“Lead Public Agency”) has entered into a certain Master Agreement dated as of even date herewith, referenced as Agreement No. \_\_\_\_\_, by and between Lead Public Agency and Supplier (as amended from time to time in accordance with the terms thereof, the “Master Agreement”) for the purchase of \_\_\_\_\_ (the “Products and Services”);

WHEREAS, the Master Agreement provides that any state, county, city, special district, local government, school district, private K-12 school, technical or vocational school, higher education institution (including community colleges, colleges and universities, both public and private), other government agency or nonprofit organization (each a “Public Agency” and collectively, “Public Agencies”) may purchase Products and Services at the prices indicated in the Master Agreement upon prior registration with U.S. Communities, in which case the Public Agency becomes a “Participating Public Agency”;

WHEREAS, U.S. Communities has the administrative and legal capacity to administer purchases under the Master Agreement to Participating Public Agencies;

WHEREAS, U.S. Communities serves in an administrative capacity for Lead Public Agency and other lead public agencies in connection with other master agreements offered by U.S. Communities;

WHEREAS, Lead Public Agency desires U.S. Communities to proceed with administration of the Master Agreement on the same basis as other master agreements;

WHEREAS, “U.S. Communities Government Purchasing Alliance” is a trade name licensed by U.S. Communities Purchasing & Finance Agency; and

WHEREAS, U.S. Communities and Supplier desire to enter into this Agreement to make available the Master Agreement to Participating Public Agencies.

NOW, THEREFORE, in consideration of the mutual covenants contained in this Agreement, U.S. Communities and Supplier hereby agree as follows:

**ARTICLE I**

**GENERAL TERMS AND CONDITIONS**

1.1 The Master Agreement, attached hereto as Exhibit A and incorporated herein by reference as though fully set forth herein, and the terms and conditions contained therein shall apply to this Agreement except as expressly changed or modified by this Agreement.

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1.2 U.S. Communities shall be afforded all of the rights, privileges and indemnifications afforded to Lead Public Agency under the Master Agreement, and such rights, privileges and indemnifications shall accrue and apply with equal effect to U.S. Communities under this Agreement including, without limitation, Supplier's obligation to provide insurance and indemnifications to Lead Public Agency.

1.3 Supplier shall perform all duties, responsibilities and obligations required under the Master Agreement.

1.4 U.S. Communities shall perform all of its duties, responsibilities and obligations as administrator of purchases under the Master Agreement as set forth herein, and Supplier acknowledges that U.S. Communities shall act in the capacity of administrator of purchases under the Master Agreement.

1.5 With respect to any purchases made by Lead Public Agency or any Participating Public Agency pursuant to the Master Agreement, U.S. Communities (a) shall not be construed as a dealer, re-marketer, representative, partner, or agent of any type of Supplier, Lead Public Agency or such Participating Public Agency, (b) shall not be obligated, liable or responsible (i) for any orders made by Lead Public Agency, any Participating Public Agency or any employee of Lead Public Agency or a Participating Public Agency under the Master Agreement, or (ii) for any payments required to be made with respect to such order, and (c) shall not be obligated, liable or responsible for any failure by a Participating Public Agency to (i) comply with procedures or requirements of applicable law or ordinance, or (ii) obtain the due authorization and approval necessary to purchase under the Master Agreement. U.S. Communities makes no representations or guaranties with respect to any minimum purchases required to be made by Lead Public Agency, any Participating Public Agency, or any employee of Lead Public Agency or a Participating Public Agency under the Master Agreement.

**ARTICLE II**

**TERM OF AGREEMENT**

2.1 This Agreement is effective as of \_\_\_\_\_ and shall terminate upon termination of the Master Agreement or any earlier termination in accordance with the terms of this Agreement, provided, however, that the obligation to pay all amounts owed by Supplier to U.S. Communities through the termination of this Agreement and all indemnifications afforded by Supplier to U.S. Communities shall survive the term of this Agreement.

**ARTICLE III**

**REPRESENTATIONS AND COVENANTS**

3.1 U.S. Communities views the relationship with Supplier as an opportunity to provide benefits to the Lead Public Agency, Public Agencies and Supplier. The successful foundation of the relationship requires certain representations and covenants from both U.S. Communities and Supplier.

3.2 U.S. Communities' Representations and Covenants.

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(a) **Marketing.** U.S. Communities shall proactively market the Master Agreement to Public Agencies using resources such as a network of major sponsors including the National League of Cities (NLC), National Association of Counties (NACo), United States Conference of Mayors (USCM), and the Association of School Business Officials (ASBO) (collectively, the “Founding Co-Sponsors”) and individual national, regional and state-level sponsors. In addition, the U.S. Communities staff shall make best efforts to enhance Supplier’s marketing efforts through meetings with Public Agencies, participation in key events and tradeshows and other marketing activity such as advertising, articles and promotional campaigns.

(b) **Training and Knowledge Management Support.** U.S. Communities shall provide support for the education, training and engagement of Supplier’s sales force as provided herein. Through its staff (each, a “Program Manager” and collectively, the “Program Managers”), U.S. Communities shall, with scheduling assistance from Supplier, conduct training sessions and conduct calls jointly with Supplier to Public Agencies. U.S. Communities shall also provide Supplier with access to U.S. Communities’ private intranet website which provides presentations, documents and information to assist Supplier’s sales force in effectively promoting the Master Agreement.

3.3 **Supplier’s Representations and Covenants.** Supplier hereby represents and covenants as follows in order to ensure that Supplier is providing the highest level of public benefit to Participating Public Agencies (such representations and covenants are sometimes referred to as “Supplier’s Commitments” and are comprised of the Corporate Commitment, Pricing Commitment, Economy Commitment and Sales Commitment):

(a) **Corporate Commitment.**

(i) The pricing, terms and conditions of the Master Agreement shall, at all times, be Supplier’s primary contractual offering of Products and Services to Public Agencies. All of Supplier’s direct and indirect marketing and sales efforts to Public Agencies shall demonstrate that the Master Agreement is Supplier’s primary offering and not just one of Supplier’s contract options.

(ii) Supplier’s sales force (including inside, direct and/or authorized dealers, distributors and representatives) shall always present the Master Agreement when marketing Products or Services to Public Agencies.

(iii) Supplier shall advise all Public Agencies that are existing customers of Supplier as to the pricing and other value offered through the Master Agreement.

(iv) Upon authorization by a Public Agency, Supplier shall transition such Public Agency to the pricing, terms and conditions of the Master Agreement.

(v) Supplier shall ensure that the U.S. Communities program and the Master Agreement are actively supported by Supplier’s senior executive management.

(vi) Supplier shall provide a national/senior management level representative with the authority and responsibility to ensure that the Supplier’s Commitments are maintained at all times. Supplier shall also designate a lead referral contact person who shall be responsible for receiving communications from U.S. Communities concerning new Participating

## Section 7

### Required U.S. Communities Information

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Public Agency registrations and for ensuring timely follow-up by Supplier's staff to requests for contact from Participating Public Agencies. Supplier shall also provide the personnel necessary to implement and support a supplier-based internet web page dedicated to Supplier's U.S. Communities program and linked to U.S. Communities' website and shall implement and support such web page.

(vii) Supplier shall demonstrate in its procurement solicitation response and throughout the term of the Master Agreement that national/senior management fully supports the U.S. Communities program and its commitments and requirements. National/Senior management is defined as the executive(s) with companywide authority.

(viii) Where Supplier has an existing contract for Products and Services with a state, Supplier shall notify the state of the Master Agreement and transition the state to the pricing, terms and conditions of the Master Agreement upon the state's request. Regardless of whether the state decides to transition to the Master Agreement, Supplier shall primarily offer the Master Agreement to all Public Agencies located within the state.

(b) **Pricing Commitment.**

(i) Supplier represents to U.S. Communities that the pricing offered under the Master Agreement is the lowest overall available pricing (net to purchaser) on Products and Services that it offers to Public Agencies. Supplier's pricing shall be evaluated on either an overall project basis or the Public Agency's actual usage for more frequently purchased Products and Services.

(ii) **Contracts Offering Lower Prices.** If a pre-existing contract and/or a Public Agency's unique buying pattern provide one or more Public Agencies a lower price than that offered under the Master Agreement, Supplier shall match that lower pricing under the Master Agreement and inform the eligible Public Agencies that the lower pricing is available under the Master Agreement. If an eligible Public Agency requests to be transitioned to the Master Agreement, Supplier shall do so and report the Public Agency's purchases made under the Master Agreement going forward. The price match only applies to the eligible Public Agencies. Below are three examples of Supplier's obligation to match the pricing under Supplier's contracts offering lower prices.

(A) Supplier holds a state contract with lower pricing that is available to all Public Agencies within the state. Supplier would be required to match the lower state pricing under the Master Agreement and make it available to all Public Agencies within the state.

(B) Supplier holds a regional cooperative contract with lower pricing that is available only to the ten cooperative members. Supplier would be required to match the lower cooperative pricing under the Master Agreement and make it available to the ten cooperative members.

(C) Supplier holds a contract with an individual Public Agency. The Public Agency contract does not contain any cooperative language and therefore other Public Agencies are not eligible to utilize the contract. Supplier would be

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required to match the lower pricing under the Master Agreement and make it available only to the individual Public Agency.

(iii) Deviating Buying Patterns. Occasionally U.S. Communities and Supplier may interact with a Public Agency that has a buying pattern or terms and conditions that considerably deviate from the normal Public Agency buying pattern and terms and conditions, and causes Supplier's pricing under the Master Agreement to be higher than an alternative contract held by Supplier. This could be created by a unique end-user preference or requirements. In the event that this situation occurs, Supplier may address the issue by lowering the price under the Master Agreement on the item(s) causing the large deviation for that Public Agency. Supplier would not be required to lower the price for other Public Agencies.

(iv) Supplier's Options in Responding to a Third Party Procurement Solicitation. While it is the objective of U.S. Communities to encourage Public Agencies to piggyback on to the Master Agreement rather than issue their own procurement solicitations, U.S. Communities recognizes that for various reasons some Public Agencies will issue their own solicitations. The following options are available to Supplier when responding to a Public Agency solicitation:

(A) Supplier may opt not to respond to the procurement solicitation. Supplier may make the Master Agreement available to the Public Agency as a comparison to its solicitation responses.

(B) Supplier may respond with the pricing, terms and conditions of the Master Agreement. If Supplier is awarded the contract, the sales would be reported as sales under the Master Agreement.

(C) If competitive conditions require pricing lower than the standard Master Agreement pricing, Supplier may submit lower pricing through the Master Agreement. If Supplier is awarded the contract, the sales would be reported as sales under the Master Agreement. Supplier would not be required to extend the lower price to other Public Agencies.

(D) Supplier may respond to the procurement solicitation with pricing that is higher (net to buyer) than the pricing offered under the Master Agreement. If awarded a contract, Supplier shall still be bound by all obligations set forth in this Section 3.3, including, without limitation, the requirement to continue to advise the awarding Public Agency of the pricing, terms and conditions of the Master Agreement.

(E) Supplier may respond to the procurement solicitation with pricing that is higher (net to buyer) than the pricing offered under the Master Agreement and if an alternative response is permitted, Supplier may offer the pricing under the Master Agreement as an alternative for consideration.

(c) Economy Commitment. Supplier shall demonstrate the benefits, including the pricing advantage, of the Master Agreement over alternative options, including competitive solicitation pricing and shall proactively offer the terms and pricing under the Master

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Agreement to Public Agencies as a more effective alternative to the cost and time associated with such alternate bids and solicitations.

(d) **Sales Commitment.** Supplier shall market the Master Agreement through Supplier's sales force or dealer network that is properly trained, engaged and committed to offering the Master Agreement as Supplier's primary offering to Public Agencies. Supplier's sales force compensation and incentives shall be greater than or equal to the compensation and incentives earned under other contracts to Public Agencies.

(i) **Supplier Sales.** Supplier shall be responsible for proactive sales of Supplier's Products and Services to Public Agencies and the timely follow-up to sales leads identified by U.S. Communities. Use of product catalogs, targeted advertising, direct mail, online marketing and other sales initiatives are encouraged. All of Supplier's sales materials targeted towards Public Agencies shall include the U.S. Communities logo. U.S. Communities hereby grants to Supplier, during the term of this Agreement, a non-exclusive, revocable, non-transferable, license to use the U.S. Communities name, trademark, and logo solely to perform its obligations under this Agreement, and for no other purpose. Any goodwill, rights, or benefits derived from Supplier's use of the U.S. Communities name, trademark, or logo shall inure to the benefit of U.S. Communities. U.S. Communities shall provide Supplier with its logo and the standards to be employed in the use of the logo. During the term of the Agreement, the Supplier shall provide U.S. Communities with its logo and the standards to be employed in the use of the logo for purposes of reproducing and using Supplier's name and logo in connection with the advertising, marketing and promotion of the Master Agreement to Public Agencies. Supplier shall assist U.S. Communities by providing camera-ready logos and by participating in related trade shows and conferences. At a minimum, Supplier's sales initiatives shall communicate that (i) the Master Agreement was competitively solicited by the Lead Public Agency, (ii) the Master Agreement provides the Supplier's best overall pricing and value to eligible agencies, (iii) there is no cost to Participating Public Agencies, and (iv) the Master Agreement is a non-exclusive contract.

(ii) **Branding and Logo Compliance.** Supplier shall be responsible for complying with the U.S. Communities branding and logo standards and guidelines. Prior to use by Supplier, all U.S. Communities related marketing material must be submitted to U.S. Communities for review and approval.

(iii) **Sales Force Training.** Supplier shall train its national sales force on the Master Agreement and U.S. Communities program. U.S. Communities shall be available to train on a national, regional or local level and generally assist with the education of sales personnel.

(iv) **Participating Public Agency Access.** Supplier shall establish the following communication links to facilitate customer access and communication:

(A) A dedicated U.S. Communities internet web-based homepage that is accessible from Supplier's homepage or main menu navigation containing:

- (1) U.S. Communities standard logo with Founding Co-Sponsors logos;
- (2) Copy of original procurement solicitation;

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- (3) Copy of Master Agreement including any amendments;
- (4) Summary of Products and Services pricing;
- (5) Electronic link to U.S. Communities' online registration page; and
- (6) Other promotional material as requested by U.S. Communities.

(B) A dedicated toll-free national hotline for inquiries regarding U.S. Communities.

(C) A dedicated email address for general inquiries in the following format: uscommunities@(name of supplier).com.

(v) Electronic Registration. Supplier shall be responsible for ensuring that each Public Agency has completed U.S. Communities' online registration process prior to processing the Public Agency's first sales order.

(vi) Supplier's Performance Review. Upon request by U.S. Communities, Supplier shall participate in a performance review meeting with U.S. Communities to evaluate Supplier's performance of the covenants set forth in this Agreement.

(vii) Supplier Content. Supplier may, from time to time, provide certain graphics, media, and other content to U.S. Communities (collectively "Supplier Content") for use on U.S. Communities websites and for general marketing and publicity purposes. During the term of the Agreement, Supplier hereby grants to U.S. Communities and its affiliates a non-exclusive, worldwide, free, transferrable, license to reproduce, modify, distribute, publically perform, publically display, and use Supplier Content in connection with U.S. Communities websites and for general marketing and publicity purposes, with the right to sublicense each and every such right. Supplier warrants that: (a) Supplier is the owner of or otherwise has the unrestricted right to grant the rights in and to Supplier Content as contemplated hereunder; and (b) the use of Supplier Content and any other materials or services provided to U.S. Communities as contemplated hereunder will not violate, infringe, or misappropriate the intellectual property rights or other rights of any third party

3.4 Breach of Supplier's Representations and Covenants. The representations and covenants set forth in this Agreement are the foundation of the relationship between U.S. Communities and Supplier. If Supplier is found to be in violation of, or non-compliance with, one or more of the representations and covenants set forth in this Agreement, Supplier shall have ninety (90) days from the notice of default to cure such violation or non-compliance and, if Supplier fails to cure such violation or non-compliance within such notice period, it shall be deemed a cause for immediate termination of the Master Agreement at Lead Public Agency's sole discretion or this Agreement at U.S. Communities' sole discretion.

3.5 Indemnity. Supplier hereby agrees to indemnify and defend U.S. Communities, and its parent companies, subsidiaries, affiliates, shareholders, member, manager, officers, directors, employees, agents, and representatives from and against any and all claims, costs, proceedings, demands, losses, damages, and expenses (including, without limitation, reasonable

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# Required U.S. Communities Information

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attorney's fees and legal costs) of any kind or nature, arising from or relating to, any actual or alleged breach of any of Supplier's representations, warranties, or covenants in this Agreement.

### ARTICLE IV

#### PRICING AUDITS

4.1 Supplier shall, at Supplier's sole expense, maintain an accounting of all purchases made by Lead Public Agency made. This audit right shall survive termination of this Agreement for a period of one (1) year from the effective date of termination. U.S. Communities shall have the authority to conduct random audits of Supplier's pricing that is offered to Participating Public Agencies at U.S. Communities' sole cost and expense. Notwithstanding the foregoing, in the event that U.S. Communities is made aware of any pricing being offered to three (3) or more Participating Public Agencies that is materially inconsistent with the pricing under the Master Agreement, U.S. Communities shall have the ability to conduct a reasonable audit of Supplier's pricing at Supplier's sole cost and expense during regular business hours upon reasonable notice. U.S. Communities may conduct the audit internally or may engage a third-party auditing firm on a non-contingent basis. Supplier shall solely be responsible for the cost of the audit. In the event of an audit, the requested materials shall be provided in the format and at the location where kept in the ordinary course of business by Supplier.

### ARTICLE V

#### FEES & REPORTING

5.1 Administrative Fees. Supplier shall pay to U.S. Communities a monthly administrative fee based upon the total sales price of all purchases shipped and billed pursuant to the Master Agreement, excluding taxes, in the amount of two percent (2%) of aggregate purchases made during each calendar month (individually and collectively, "Administrative Fees"). Supplier's annual sales shall be measured on a calendar year basis. All Administrative Fees shall be payable in U.S. Dollars and shall be made by wire to U.S. Communities, or its designee or trustee as may be directed in writing by U.S. Communities. Administrative Fees shall be due and payable within thirty (30) days of the end of each calendar month for purchases shipped and billed during such calendar month. U.S. Communities agrees to pay to Lead Public Agency five percent (5%) of all Administrative Fees received from Supplier to help offset Lead Public Agency's costs incurred in connection with managing the Master Agreement nationally.

5.2 Sales Reports. Within thirty (30) days of the end of each calendar month, Supplier shall deliver to U.S. Communities an electronic accounting report, in the format prescribed by Exhibit B, attached hereto, summarizing all purchases made under the Master Agreement during such calendar month ("Sales Report"). All purchases indicated in the Sales Report shall be denominated in U.S. Dollars. All purchases shipped and billed pursuant to the Master Agreement for the applicable calendar month shall be included in the Sales Report. Submitted reports shall be verified by U.S. Communities against its registration database. Any data that is inconsistent with the registration database shall be changed prior to processing. U.S. Communities reserves the right upon reasonable advance notice to Supplier to change the prescribed report format to accommodate the distribution of the Administrative Fees to its program sponsors and state associations.

## Section 7

### Required U.S. Communities Information

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5.3 Exception Reporting/Sales Reports Audits. U.S. Communities or its designee may, at its sole discretion, compare Supplier's Sales Reports with Participating Public Agency records or other sales analysis performed by Participating Public Agencies, sponsors, advisory board members or U.S. Communities staff. If there is a material discrepancy between the Sales Report and such records or sales analysis as determined by U.S. Communities, U.S. Communities shall notify Supplier in writing and Supplier shall have thirty (30) days from the date of such notice to resolve the discrepancy to U.S. Communities' reasonable satisfaction. Upon resolution of the discrepancy, Supplier shall remit payment to U.S. Communities' trustee within fifteen (15) calendar days. Any questions regarding an exception report should be directed to U.S. Communities in writing to reporting@uscommunities.org. If Supplier does not resolve the discrepancy to U.S. Communities' reasonable satisfaction within thirty (30) days, U.S. Communities shall have the right to engage outside services to conduct an independent audit of Supplier's reports. Supplier shall solely be responsible for the cost of the audit.

5.4 Online Reporting. Within forty-five (45) days of the end of each calendar month, U.S. Communities shall provide online reporting to Supplier containing Supplier's sales reporting for such calendar month. Supplier shall have access to various reports through the U.S. Communities intranet website. Such reports are useful in resolving reporting issues and enabling Supplier to better manage its Master Agreement.

5.5 Usage Reporting. Within thirty (30) days of the end of each contract year, Supplier shall deliver to U.S. Communities an electronic usage report of all sales under the Master Agreement, including:

- (i) Supplier's Product Number
- (ii) Product Description
- (iii) Manufacturer Name
- (iv) Manufacturer Number
- (v) Unit of Measure
- (vi) U.S. Communities Price
- (vii) Number of times ordered
- (viii) Units sold
- (ix) Sales by Manufacturer

5.6 Supplier's Failure to Provide Reports or Pay Administrative Fees. Failure to provide a Sales Report or pay Administrative Fees within the time and in the manner specified herein shall be regarded as a material breach under this Agreement and if not cured within thirty (30) days of written notice to Supplier, shall be deemed a cause for termination of the Master Agreement at Lead Public Agency's sole discretion or this Agreement at U.S. Communities' sole discretion. All Administrative Fees not paid within thirty (30) days of the end of the previous calendar month shall bear interest at the rate of one and one-half percent (1.5%) per month until paid in full.

### ARTICLE VI

### MISCELLANEOUS

**Section 7**  
**Required U.S. Communities Information**

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6.1 Entire Agreement. This Agreement supersedes any and all other agreements, either oral or in writing, between the parties hereto with respect to the subject matter hereof, and no other agreement, statement, or promise relating to the subject matter of this Agreement which is not contained herein shall be valid or binding.

6.2 Assignment.

(a) Supplier. Neither this Agreement nor any rights or obligations hereunder shall be assignable by Supplier without prior written consent of U.S. Communities, and any assignment without such consent shall be void.

(b) U.S. Communities. This Agreement and any rights or obligations hereunder may be assigned by U.S. Communities in U.S. Communities' sole discretion, to an existing or newly established legal entity that has the authority and capacity to perform U.S. Communities' obligations hereunder.

6.3 Notices. All reports, notices or other communications given hereunder shall be delivered by first-class mail, postage prepaid, or overnight delivery requiring signature on receipt to the addresses as set forth below. U.S. Communities may, by written notice delivered to Supplier, designate any different address to which subsequent reports, notices or other communications shall be sent.

U.S. Communities:

U.S. Communities  
9711 Washingtonian Blvd., Suite 100  
Gaithersburg, MD 20878-7381  
Attn: Program Manager Administration

Supplier:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Attn: U.S. Communities Program Manager

6.4 Severability. If any provision of this Agreement shall be deemed to be, or shall in fact be, illegal, inoperative or unenforceable, the same shall not affect any other provision or provisions herein contained or render the same invalid, inoperative or unenforceable to any extent whatever.

6.5 Waiver. Any failure of a party to enforce, for any period of time, any of the provisions under this Agreement shall not be construed as a waiver of such provisions or of the right of said party thereafter to enforce each and every provision under this Agreement.

6.6 Counterparts. This Agreement may be executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument.

6.7 Modifications. This Agreement may not be effectively amended, changed, modified, altered or terminated without the prior written consent of the parties hereto.

## Section 7

### Required U.S. Communities Information

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6.8 Governing Law; Arbitration. This Agreement will be governed by and interpreted in accordance with the laws of the State of California without regard to any conflict of laws principles. Any dispute, claim, or controversy arising out of or relating to this Agreement or the breach, termination, enforcement, interpretation or validity thereof, including the determination of the scope or applicability of this dispute resolution clause, shall be determined by arbitration in Walnut Creek, California, before one (1) arbitrator. The arbitration shall be administered by JAMS pursuant to its Comprehensive Arbitration Rules and Procedures. Judgment on the award may be entered in any court having jurisdiction. This clause shall not preclude parties from seeking provisional remedies in aid of arbitration from a court of appropriate jurisdiction. The prevailing party will be entitled to recover its reasonable attorneys' fees and arbitration costs from the other party. The arbitration award shall be final and binding. Each party commits that prior to commencement of arbitration proceedings, the parties shall submit the dispute to JAMS for mediation. The parties will cooperate with JAMS and with one another in selecting a mediator from JAMS panel of neutrals, and in promptly scheduling the mediation proceedings. The parties covenant that they will participate in the mediation in good faith, and that they will share equally in its costs. The mediation will be conducted by each party designating a duly authorized officer or other representative to represent the party with the authority to bind the party, and that the parties agree to exchange informally such information as is reasonably necessary and relevant to the issues being mediated. All offers, promises, conduct, and statements, whether oral or written, made in the course of the mediation by any of the parties, their agents, employees, experts, and attorneys, and by the mediator or any JAMS employees, are confidential, privileged, and inadmissible for any purpose, including impeachment, in any arbitration or other proceeding involving the parties, provided that evidence that is otherwise admissible or discoverable shall not be rendered inadmissible or non-discoverable as a result of its use in the mediation. If the dispute is not resolved within thirty (30) days from the date of the submission of the dispute to mediation (or such later date as the parties may mutually agree in writing), the administration of the arbitration shall proceed. The mediation may continue, if the parties so agree, after the appointment of the arbitrator. Unless otherwise agreed by the parties, the mediator shall be disqualified from serving as arbitrator in the case. The pendency of a mediation shall not preclude a party from seeking provisional remedies in aid of the arbitration from a court of appropriate jurisdiction, and the parties agree not to defend against any application for provisional relief on the ground that a mediation is pending.

6.9 Successors and Assigns. This Agreement shall inure to the benefit of and shall be binding upon U.S. Communities, Supplier and any successor and assign thereto; subject, however, to the limitations contained herein.

*[Remainder of Page Intentionally Left Blank – Signatures Follow]*

**Section 7**  
**Required U.S. Communities Information**

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IN WITNESS WHEREOF, U.S. Communities has caused this Agreement to be executed in its name and Supplier has caused this Agreement to be executed in its name, all as of the date first written above.

U.S. Communities:

U.S. COMMUNITIES GOVERNMENT PURCHASING ALLIANCE

By \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Supplier:

\_\_\_\_\_

By \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

**Section 7**  
**Required U.S. Communities Information**

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ATTACHMENT A

MASTER AGREEMENT

(Lead Public Agency Master Agreement/Contract to be attached at time of award.)

# Section 7 Required U.S. Communities Information

## ATTACHMENT B

### SALES REPORT FORMAT

Appendix B - US (Data Format)													
Sales Report Template													
TIN	Supplier ID	Account No.	Agency Name	Dept Name	Address	City	State	Zip	Agency Type	Year	Qtr	Month	Amount
956000735	160	89518997	CITY OF LA/MGMT EMPL SVCS	Purchasing	555 RAMIREZ ST STE 312	LOS ANGELES	CA	90012	20	2012	2	5	1525.50
956000222	160	34868035	LOS ANGELES COUNTY	Facilities	350 S FIGUEROA ST STE 700	LOS ANGELES	CA	90071	30	2012	2	5	1603.64
956000735	160	89496461	CITY OF LA/ENVIRON AFFAIR	Purchasing	555 RAMIREZ ST STE 312	LOS ANGELES	CA	90012	20	2012	2	5	1625.05
956000735	160	89374835	CITY OF LA/COMMUNITY DEV	Purchasing	555 RAMIREZ ST STE 312	LOS ANGELES	CA	90012	20	2012	2	5	45090.79
066002010	160	328NA0001053	GROTON TOWN OF PUBLIC WORKS	Water	123 A St	GROTON	CT	06340	20	2012	2	5	318.00
066001854	160	328NA0001051	GROTON CITY OF	Administration	123 A St	GROTON	CT	06340	20	2012	2	5	212.00

SALES REPORT DATA FORMAT					
Column Name	Required	Data Type	Length	Example	Comment
TIN	Optional	Text	9	956000735	No Dash, Do not omit leading zero.
Supplier ID	Yes	Number	3	111	See Supplier ID Table Below
Account No.	Optional	Text	25 max		Depends on supplier account no.
Agency Name	Yes	Text	255 max	Los Angeles County	
Dept Name	Optional	Text	255 max	Purchasing Dept	
Address	Yes	Text	255 max		
City	Yes	Text	255 max	Los Angeles	Must be a valid City name
State	Yes	Text	2	CA	
Zip	Yes	Text	5	90071	No Dash, Do not omit leading zero, Valid zip code
Agency Type	Yes	Number	2	30	See Agency Type Table Below
Year	Yes	Number	4	2010	
Qtr	Yes	Number	1	4	
Month	Yes	Number	2	12	
Amount	Yes	Number	variable	45090.79	Two digit decimal point, no \$ sign or commas

Agency Type Table	
Agency Type ID	Agency Type Description
10	K-12
11	Community College
12	College and University
20	City
21	City Special District
22	Consolidated City/County
30	County
31	County Special District
40	Federal
41	Crown Corporations
50	Housing Authority
80	State Agency
81	Independent Special District
82	Non-Profit
84	Other

**Section 8**  
**U.S. Communities Additional Provisions**

U.S. COMMUNITIES ADDITIONAL PROVISIONS

**MASTER INTERGOVERNMENTAL COOPERATIVE PURCHASING AGREEMENT**

This Master Intergovernmental Cooperative Purchasing Agreement (“Agreement”) is made between certain government agencies that execute a Lead Public Agency Certificate (collectively, “Lead Public Agencies”) to be appended and made a part hereof and other government agencies (“Participating Public Agencies”) that agree to the terms and conditions hereof through the U.S. Communities registration process and made a part hereof.

**RECITALS**

WHEREAS, after a competitive solicitation and selection process by Lead Public Agencies, in compliance with their own policies, procedures, rules and regulations, a number of suppliers (each, a “Contract Supplier”) have entered into Master Agreements with Lead Public Agencies to provide a variety of goods, products and services based on national and international volumes (herein “Products and Services”);

WHEREAS, Master Agreements are made available by Lead Public Agencies through U.S. Communities and provide that Participating Public Agencies may purchase Products and Services on the same terms, conditions and pricing as the Lead Public Agency, subject to any applicable local purchasing ordinances and the laws of the State of purchase;

WHEREAS, the parties desire to comply with the requirements and formalities of any intergovernmental cooperative act, if applicable, to the laws of the State of purchase;

WHEREAS, the parties hereto desire to conserve resources and reduce procurement cost;

WHEREAS, the parties hereto desire to improve the efficiency, effectiveness and economy of the procurement of necessary Products and Services;

NOW, THEREFORE, in consideration of the mutual promises contained in this Agreement, and of the mutual benefits to result, the parties agree as follows:

1. That each party will facilitate the cooperative procurement of Products and Services.
2. That the procurement of Products and Services subject to this Agreement shall be conducted in accordance with and subject to the relevant statutes, ordinances, rules and regulations that govern each party’s procurement practices.
3. That the cooperative use of solicitations obtained by a party to this Agreement shall be in accordance with the terms and conditions of the solicitation, except as modification of those terms and conditions is otherwise allowed or required by applicable law.
4. That the Lead Public Agencies will make available, upon reasonable request and subject to convenience, information which may assist in improving the effectiveness, efficiency and economy of Participating Public Agencies’ procurement of Products and Services.
5. That the Participating Public Agency will make timely payments to the Contract Supplier for Products and Services received in accordance with the terms and conditions of the procurement. Payment, inspections and acceptance of Products and Services ordered by the

## **Section 8**

### **U.S. Communities Additional Provisions**

Participating Public Agency shall be the exclusive obligation of such Participating Public Agency. Disputes between the Participating Public Agency and Contract Supplier are to be resolved in accord with the law and venue rules of the State of purchase.

6. The Participating Public Agency shall not use this Agreement as a method for obtaining additional concessions or reduced prices for similar products or services.
7. The Participating Public Agency is solely responsible for ordering, accepting, and paying and any other action, inaction or decision regarding the Products and Services obtained under this Agreement. A Lead Public Agency shall not be liable in any manner for any action or inaction or decisions taken by a Participating Public Agency. The Participating Public Agency shall, to the extent permitted by applicable law, hold the Lead Public Agency harmless from any liability that may arise from action or inaction of the Participating Public Agency.
8. The exercise of any rights or remedies by the Participating Public Agency shall be the exclusive obligation of such Participating Public Agency.
9. This Agreement shall remain in effect until termination by a party giving thirty (30) days prior written notice to U.S. Communities at 2999 Oak Road, Suite 710, Walnut Creek, CA 94597.
10. This Agreement shall become effective after execution of the Lead Public Agency Certificate or Participating Public Agency registration, as applicable.

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**STATE NOTICE ADDENDUM**

**Pursuant to certain state notice provisions the following public agencies and political subdivisions of the referenced public agencies are eligible to access the contract award made pursuant to this solicitation. Public agencies and political subdivisions are hereby given notice of the foregoing request for proposal for purposes of complying with the procedural requirements of said statutes:**

**Nationwide:**

[http://www.usa.gov/Agencies/Local\\_Government/Cities.shtml](http://www.usa.gov/Agencies/Local_Government/Cities.shtml)

**Other states:**

**State of Oregon, State of Hawaii, State of Washington**

AgencyName	State	COUNTY OF MAUI	HI
Malama Honua Public Charter School	HI	Lanai Community Health Center	HI
ST JOHN THE BAPTIST	HI	Maui High Band Booster Club	HI
Waimanalo Elementary and Intermediate School	HI	Tri-Isle Resource Conservation and Development District	HI
Kailua High School	HI	Kumulani Chapel	HI
PACIFIC BUDDHIST ACADEMY	HI	Chamber of Commerce Hawaii	HI
HAWAII TECHNOLOGY ACADEMY	HI	Naalehu Assembly of God	HI
CONGREGATION OF CHRISTIAN BROTHERS OF HAWAII, INC.	HI	outrigger canoe club	HI
MARYKNOLL SCHOOL	HI	One Kalakaua	HI
ISLAND SCHOOL	HI	Native Hawaiian Hospitality Association	HI
STATE OF HAWAII, DEPT. OF EDUCATION	HI	St. Theresa School	HI
KE KULA O S. M. KAMAKAU	HI	Hawaii Peace and Justice	HI
KAMEHAMEHA SCHOOLS	HI	Kauai Youth Basketball Association	HI
HANAHAU`OLI SCHOOL	HI	NA HALE O MAUI	HI
KIHEI CHARTER SCHOOL	HI	LEEWARD HABITAT FOR HUMANITY	HI
EMMANUAL LUTHERAN SCHOOL	HI	WAIANA`E COMMUNITY OUTREACH	HI
School Lunch Program	HI	NA LEI ALOHA FOUNDATION	HI
Ewa Makai Middle School	HI	HAWAII FAMILY LAW CLINIC	HI
Our Savior Lutheran School	HI	DBA ALA KUOLA	HI
BOARD OF WATER SUPPLY	HI	BUILDING INDUSTRY ASSOCIATION OF HAWAII	HI
MAUI COUNTY COUNCIL	HI	UNIVERSITY OF HAWAII	HI
Kauai County Council	HI	FEDERAL CREDIT UNION	HI
Honolulu Fire Department	HI		

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LANAKILA REHABILITATION CENTER INC.	HI	Kipuka o Ke Ola	HI
POLYNESIAN CULTURAL CENTER	HI	READ TO ME INTERNATIONAL FOUNDATION	HI
CTR FOR CULTURAL AND TECH INTERCHNG BETW EAST AND WEST	HI	MAUI FAMILY YMCA	HI
BISHOP MUSEUM	HI	WAILUKU FEDERAL CREDIT UNION	HI
ALCOHOLIC REHABILITATION SVS OF HI INC DBA HINA MAUKA	HI	ST. THERESA CHURCH	HI
ASSOCIATION OF OWNERS OF KUKUI PLAZA	HI	HALE MAHAOLU	HI
MAUI ECONOMIC DEVELOPMENT BOARD	HI	West Maui Community Federal Credit Union	HI
NETWORK ENTERPRISES, INC.	HI	Hawaii Island Humane Society	HI
HONOLULU HABITAT FOR HUMANITY	HI	Western Pacific Fisheries Council	HI
ALOHACARE	HI	Kama'aina Care Inc	HI
ORI ANUENUE HALE, INC.	HI	International Archaeological Research Institute, Inc.	HI
IUPAT, DISTRICT COUNCIL 50	HI	Community Empowerment Resources	HI
GOODWILL INDUSTRIES OF HAWAII, INC.	HI	Tutu and Me Traveling Preschool	HI
HAROLD K.L. CASTLE FOUNDATION	HI	First United Methodist Church	HI
MAUI ECONOMIC OPPORTUNITY, INC.	HI	United Chinese Society	HI
EAH, INC.	HI	Haggai Institue	HI
PARTNERS IN DEVELOPMENT FOUNDATION	HI	AOAO Royal Capitol Plaza	HI
HABITAT FOR HUMANITY MAUI	HI	Kumpang Lanai	HI
W. M. KECK OBSERVATORY	HI	Child and Family Service	HI
HAWAII EMPLOYERS COUNCIL	HI	MARINE SURF WAIKIKI, INC.	HI
HAWAII STATE FCU	HI	Hawaii Health Connector	HI
MAUI COUNTY FCU	HI	Hawaii Carpenters Market Recovery Program Fund	HI
PUNAHOU SCHOOL	HI	Puu Heleakala Community Association	HI
YMCA OF HONOLULU	HI	Saint Louis School	HI
EASTER SEALS HAWAII	HI	Kailua Racquet Club, Ltd.	HI
AMERICAN LUNG ASSOCIATION	HI	Homewise Inc.	HI
Pohaha I Ka Lani	HI	Hawaii Baptist Academy	HI
Hawaii Area Committee	HI	Kroc Center Hawaii	HI
Tri-Isle RC&D	HI	Kupu	HI
Lanai Federal Credit Union	HI	University of the Nations	HI
Aloha United Way	HI	ARGOSY UNIVERSITY	HI
		HAWAII PACIFIC UNIVERSITY	HI
		UNIVERSITY OF HAWAII AT MANOA	HI
		RESEARCH CORPORATION OF THE UNIVERSITY OF HAWAII	HI
		BRIGHAM YOUNG UNIVERSITY	HI

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- HAWAII		Access	
University Clinical Research and Association	HI	CITY AND COUNTY OF HONOLULU	HI
CHAMINADE UNIVERSITY OF HONOLULU	HI	Lanai Youth Center	HI
Ricoh	HI	Silver Dolphin Bistro	HI
ROMAN CATHOLIC CHURCH IN THE STATE OF HAWAII	HI	Commander, Navy Region Hawaii	HI
Hawaii Information Consortium	HI	US Navy	HI
Leeward Community Church	HI	Defense Information System Agency	HI
E Malama In Keiki O Lanai	HI	84th Engineer Battalion	HI
Keawala'i Congregational Church	HI	Department of Veterans Affairs	HI
Lanai Community Hospital	HI	Central School District 13J (Polk County, Oregon)	OR
Angels at Play Preschool & Kindergarten	HI	Milton-Freewater Unified School District No 7	OR
Queen Emma Gardens AOA	HI	Scappoose Adventist School	OR
FAMILY SUPPORT SERVICES OF WEST HAWAII	HI	Ontario School District 8C	OR
Honolulu Community College	HI	Trillium Charter School	OR
COLLEGE OF THE MARSHALL ISLANDS	HI	Echo School District	OR
DOT Airports Division Hilo International Airport	HI	Warrenton Hammond School	OR
Judiciary - State of Hawaii	HI	Immanuel Lutheran School	OR
ADMIN. SERVICES OFFICE	HI	Columbia Academy	OR
SOH- JUDICIARY CONTRACTS AND PURCH	HI	VALLEY CATHOLIC SCHL	OR
STATE DEPARTMENT OF DEFENSE	HI	CROOK COUNTY SCHOOL DISTRICT	OR
HAWAII CHILD SUPPORT ENFORCEMENT AGENCY	HI	CORBETT SCHL DIST #39	OR
HAWAII HEALTH SYSTEMS CORPORATION	HI	Trinity Lutheran Church and School	OR
HAWAII AGRICULTURE RESEARCH CENTER	HI	Bethel School District #52	OR
STATE OF HAWAII	HI	OREGON CITY PUBLIC SCHL	OR
Third Judicial Circuit - State of Hawaii	HI	Ppmc Education Committee	OR
State of Hawaii Department of Transportation	HI	Stayton Christian School	OR
Office of the Governor	HI	South Columbia Family School	OR
State of Hawaii-Department of Health-Disability & Communication	HI	Sunrise Preschool	OR
		St. Therese Parish/School	OR
		PINE-EAGLE SCHOOL DISTRICT	OR
		061	
		Portland YouthBuilders	OR
		Wallowa County ESD	OR
		Fern Ridge School District 28J	OR
		Knova Learning	OR
		New Horizon Christian School	OR
		MOLALLA RIVER ACADEMY	OR

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HIGH DESERT EDUCATION SERVICE DISTRICT	OR	BAKER COUNTY SCHOOL DIST. 16J - MALHEUR ESD	OR
St. Luke Catholic School	OR	HARNEY EDUCATION SERVICE DISTRICT	OR
SOUTHWEST CHARTER SCHOOL	OR	GREATER ALBANY PUBLIC SCHOOL DISTRICT	OR
WHITEAKER MONTESSORI SCHOOL	OR	LAKE OSWEGO SCHOOL DISTRICT 7J	OR
CASCADES ACADEMY OF CENTRAL OREGON	OR	SOUTHERN OREGON EDUCATION SERVICE DISTRICT	OR
NEAH-KAH-NIE DISTRICT NO.56	OR	SILVER FALLS SCHOOL DISTRICT	OR
INTER MOUNTAIN ESD	OR	St Helens School District	OR
STANFIELD SCHOOL DISTRICT	OR	DAYTON SCHOOL DISTRICT NO.8	OR
LA GRANDE SCHOOL DISTRICT	OR	Amity School District 4-J	OR
CASCADE SCHOOL DISTRICT	OR	SCAPPOOSE SCHOOL DISTRICT 1J	OR
DUFUR SCHOOL DISTRICT NO.29	OR	REEDSPORT SCHOOL DISTRICT	OR
hillsboro school district	OR	FOREST GROVE SCHOOL DISTRICT	OR
GASTON SCHOOL DISTRICT 511J	OR	DAVID DOUGLAS SCHOOL DISTRICT	OR
BEAVERTON SCHOOL DISTRICT	OR	LOWELL SCHOOL DISTRICT NO.71	OR
COUNTY OF YAMHILL SCHOOL DISTRICT 29	OR	TIGARD-TUALATIN SCHOOL DISTRICT	OR
WILLAMINA SCHOOL DISTRICT	OR	SHERWOOD SCHOOL DISTRICT 88J	OR
MCMINNVILLE SCHOOL DISTRICT NO.40	OR	RAINIER SCHOOL DISTRICT	OR
Sheridan School District 48J	OR	NORTH CLACKAMAS SCHOOL DISTRICT	OR
THE CATLIN GABEL SCHOOL	OR	MONROE SCHOOL DISTRICT NO.1J	OR
NORTH WASCO CTY SCHOOL DISTRICT 21 - CHENOWITH	OR	CHILDPEACE MONTESSORI	OR
CENTRAL CATHOLIC HIGH SCHOOL	OR	HEAD START OF LANE COUNTY	OR
CANYONVILLE CHRISTIAN ACADEMY	OR	HARNEY COUNTY SCHOOL DIST. NO.3	OR
OUR LADY OF THE LAKE SCHOOL	OR	NESTUCCA VALLEY SCHOOL DISTRICT NO.101	OR
NYSSA SCHOOL DISTRICT NO. 26	OR	ARCHBISHOP FRANCIS	OR
ARLINGTON SCHOOL DISTRICT NO. 3	OR	NORBERT BLANCHET SCHOOL	OR
LIVINGSTONE ADVENTIST ACADEMY	OR	LEBANON COMMUNITY SCHOOLS NO.9	OR
Santiam Canyon SD 129J	OR	MT.SCOTT LEARNING CENTERS	OR
WEST HILLS COMMUNITY CHURCH	OR	SEVEN PEAKS SCHOOL	OR
BANKS SCHOOL DISTRICT	OR		
WILLAMETTE EDUCATION SERVICE DISTRICT	OR		

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DE LA SALLE N CATHOLIC HS	OR	GLIDE SCHOOL DISTRICT NO.12	OR
MULTISENSORY LEARNING ACADEMY	OR	SOUTH UMPQUA SCHOOL DISTRICT #19	OR
MITCH CHARTER SCHOOL	OR	YONCALLA SCHOOL DISTRICT NO.32	OR
REALMS CHARTER SCHOOL	OR	ELKTON SCHOOL DISTRICT NO.34	OR
BAKER SCHOOL DISTRICT 5-J	OR	DOUGLAS COUNTY SCHOOL DISTRICT 116	OR
PHILOMATH SCHOOL DISTRICT	OR	HOOD RIVER COUNTY SCHOOL DISTRICT	OR
CLACKAMAS EDUCATION SERVICE DISTRICT	OR	PHOENIX-TALENT SCHOOL DISTRICT NO.4	OR
CANBY SCHOOL DISTRICT	OR	CENTRAL POINT SCHOOL DISTRICT NO. 6	OR
OREGON TRAIL SCHOOL DISTRICT NO.46	OR	JACKSON CO SCHOOL DIST NO.9	OR
WEST LINN WILSONVILLE SCHOOL DISTRICT	OR	ROGUE RIVER SCHOOL DISTRICT NO.35	OR
MOLALLA RIVER SCHOOL DISTRICT NO.35	OR	MEDFORD SCHOOL DISTRICT 549C	OR
ESTACADA SCHOOL DISTRICT NO.108	OR	CULVER SCHOOL DISTRICT NO.	OR
GLADSTONE SCHOOL DISTRICT	OR	JEFFERSON COUNTY SCHOOL DISTRICT 509-J	OR
ASTORIA SCHOOL DISTRICT 1C	OR	GRANTS PASS SCHOOL DISTRICT 7	OR
SEASIDE SCHOOL DISTRICT 10	OR	LOST RIVER JR/SR HIGH SCHOOL	OR
NORTHWEST REGIONAL EDUCATION SERVICE DISTRICT	OR	KLAMATH FALLS CITY SCHOOLS	OR
VERNONIA SCHOOL DISTRICT 47J	OR	LANE COUNTY SCHOOL DISTRICT 4J	OR
SOUTH COAST EDUCATION SERVICE DISTRICT	OR	SPRINGFIELD SCHOOL DISTRICT NO.19	OR
COOS BAY SCHOOL DISTRICT NO.9	OR	CRESWELL SCHOOL DISTRICT	OR
COOS BAY SCHOOL DISTRICT	OR	SOUTH LANE SCHOOL DISTRICT 45J3	OR
NORTH BEND SCHOOL DISTRICT 13	OR	LANE COUNTY SCHOOL DISTRICT 69	OR
COQUILLE SCHOOL DISTRICT 8	OR	SIUSLAW SCHOOL DISTRICT	OR
MYRTLE POINT SCHOOL DISTRICT NO.41	OR	SWEET HOME SCHOOL DISTRICT NO.55	OR
BANDON SCHOOL DISTRICT	OR	LINN CO. SCHOOL DIST. 95C - SCIO SD	OR
BROOKING HARBOR SCHOOL DISTRICT NO.17-C	OR	ONTARIO MIDDLE SCHOOL	OR
REDMOND SCHOOL DISTRICT	OR	GERVAIS SCHOOL DIST. #1	OR
DESCHUTES COUNTY SD NO.6 - SISTERS SD	OR	NORTH SANTIAM SCHOOL DISTRICT 29J	OR
DOUGLAS EDUCATION SERVICE DISTRICT	OR		
ROSEBURG PUBLIC SCHOOLS	OR		

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JEFFERSON SCHOOL DISTRICT	OR	Vale School District No. 84	OR
SALEM-KEIZER PUBLIC SCHOOLS	OR	St. Mary School	OR
MT. ANGEL SCHOOL DISTRICT NO.91	OR	Junction City High School	OR
MARION COUNTY SCHOOL DISTRICT 103 - WASHINGTON ES	OR	Three Rivers School District	OR
MORROW COUNTY SCHOOL DISTRICT	OR	Fern Ridge School District	OR
MULTNOMAH EDUCATION SERVICE DISTRICT	OR	JESUIT HIGH SCHL EXEC OFC	OR
GRESHAM-BARLOW SCHOOL DISTRICT	OR	LASALLE HIGH SCHOOL	OR
DALLAS SCHOOL DISTRICT NO. 2	OR	Southwest Christian School	OR
CENTRAL SCHOOL DISTRICT 13J	OR	Willamette Christian School	OR
St. Mary Catholic School	OR	Westside Christian High School	OR
CROSSROADS CHRISTIAN SCHOOL	OR	CS LEWIS ACADEMY	OR
ST. ANTHONY SCHOOL	OR	Portland America School	OR
Pedee School	OR	Forest Hills Lutheran School	OR
HERITAGE CHRISTIAN SCHOOL	OR	Mosier Community School	OR
BEND-LA PINE SCHOOL DISTRICT	OR	Koreducators Lep High	OR
GLENDALE SCHOOL DISTRICT	OR	Warrenton Hammond School District	OR
LINCOLN COUNTY SCHOOL DISTRICT	OR	Sutherlin School District	OR
PORTLAND PUBLIC SCHOOLS	OR	Malheur Elementary School District	OR
REYNOLDS SCHOOL DISTRICT	OR	Ontario School District	OR
CENTENNIAL SCHOOL DISTRICT	OR	Parkrose School District 3	OR
NOBEL LEARNING COMMUNITIES	OR	Riverdale School District 51J	OR
St. Stephen's Academy	OR	Tillamook School District	OR
McMinnville Adventist Christian School	OR	Madeleine School	OR
Salem-Keizer 24J	OR	Union School District	OR
McKay High School	OR	Helix School District	OR
Pine Eagle Charter School	OR	Riddle School District	OR
Waldo Middle School	OR	Ashbrook Independent School	OR
OAKLAND SCHOOL DISTRICT 001	OR	Molalla River School District	OR
hermiston school district	OR	Corvallis School District 509J	OR
Clear Creek Middle School	OR	Falls City School District #57	OR
Marist High School	OR	Portland Christian Schools	OR
Victory Academy	OR	LUCKIAMUTE VALLEY CHARTER SCHOOLS	OR
		Insight School of Oregon Painted Hills	OR
		Deer Creek Elementary School	OR
		Yamhill Carlton School District	OR
		COLTON SCHL DIST 53	OR
		HARRISBURG SCHL DIST	OR
		CENTRAL CURRY SCHL DIST#1	OR
		BNAI BRITH CAMP	OR
		OREGON FOOD BANK	OR

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HOSANNA CHRISTIAN SCHL	OR	GILLIAM COUNTY OREGON	OR
ABIQUA SCHL	OR	UMATILLA COUNTY, OREGON	OR
Salem keizar school district	OR	DOUGLAS ELECTRIC	OR
Scio High School	OR	COOPERATIVE, INC.	
Athena Weston School District 29RJ	OR	MULTNOMAH LAW LIBRARY	OR
Butte Falls School District	OR	clackamas county	OR
Bend International School	OR	CLATSOP COUNTY	OR
Imbler School District #11	OR	COLUMBIA COUNTY, OREGON	OR
monument school	OR	coos county	OR
PENDLETON SCHOOL DISTRICT	OR	CROOK COUNTY ROAD	OR
#16R		DEPARTMENT	
Ohara Catholic School	OR	CURRY COUNTY OREGON	OR
MARCOLA SCHOOL DISTRICT	OR	DESCHUTES COUNTY	OR
079J		GILLIAM COUNTY	OR
LINN-BENTON-LINCOLN ESD	OR	GRANT COUNTY, OREGON	OR
Reynolds High School	OR	HARNEY COUNTY SHERIFFS	OR
St. Paul School District	OR	OFFICE	
Sabin-Schellenberg Technical Center	OR	HOOD RIVER COUNTY	OR
St Paul Parish School	OR	jackson county	OR
Joseph School District	OR	josephine county	OR
EagleRidge High School	OR	klamath county	OR
Grant Community School	OR	LANE COUNTY	OR
Hope chinese charter	OR	LINN COUNTY	OR
Northwest Academy	OR	MARION COUNTY , SALEM,	OR
Sunny Wolf Charter School	OR	OREGON	
MCKENZIE SCHOOL DISTRICT	OR	MULTNOMAH COUNTY	OR
068		SHERMAN COUNTY	OR
L'Etoiile French Immersion School	OR	WASCO COUNTY	OR
LA GRANDE SCHOOL DISTRICT	OR	YAMHILL COUNTY	OR
001		WALLOWA COUNTY	OR
FOSSIL SCHOOL DISTRICT 21J	OR	ASSOCIATION OF OREGON	OR
Marist Catholic High School	OR	COUNTIES	
Springfield Public Schools	OR	NAMI LANE COUNTY	OR
Elgin school dist.	OR	BENTON COUNTY	OR
PLEASANT HILL SCH DIST #1	OR	DOUGLAS COUNTY	OR
Ukiah School District 80R	OR	JEFFERSON COUNTY	OR
Lake Oswego Montessori School	OR	LAKE COUNTY	OR
North Powder Charter School	OR	LINCOLN COUNTY	OR
Siletz Valley School	OR	POLK COUNTY	OR
French American School	OR	UNION COUNTY	OR
Mastery Learning Institute	OR	WASHINGTON COUNTY	OR
North Lake School District 14	OR	MORROW COUNTY	OR
Early College High School	OR	Mckenzie Personnel Services	OR

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Washington County Facilities & Park Services	OR	Bend Elks Lodge 1371	OR
		Friendly House, Inc.	OR
Multnomah County Department of Community Justice	OR	Klamath Siskiyou Wildlands Center	OR
		Grants Pass Seventh-day Adventist Church	OR
NORCOR Juvenile Detention	OR		
Tillamook County Estuary Job Council	OR	Corvallis Waldorf School	OR
	OR	Farmworkers Housing Development Corporation	OR
BAKER CNTY GOVT	OR		
TILLAMOOK CNTY	OR	World Forestry Center	OR
Multnomah County Dept of County Assets	OR	Adapt	OR
		Kid Time	OR
Wheeler County	OR	Oregon Farm Bureau	OR
Clackamas County Service District # 1/Tri-City Service District	OR	Mt Emily Safe Center	OR
		Salem First Presbyterian Church	OR
Resource Connections of Oregon	OR	Rolling Hills Baptist Church	OR
Lane County Sheriff's Office	OR	Baker Elks	OR
Clatsop County Sheriff's Office	OR	Gates Community Church of Christ	OR
Harney County Community Corrections	OR	PIP Corps LLC	OR
Grant County Economic Development	OR	Turtle Ridge Wildlife Center	OR
Clackamas County Juvenile Dept	OR	Grande Ronde Model Watershed Foundation	OR
Columbia Basin Care Facility	OR	Western Environmental Law Center	OR
City of Seaside Police Department	OR	Oregon District 7 Little League	OR
Tamarack Aquatic Center	OR	Mercy Flights, Inc.	OR
Seven Feathers Casino	OR	Metropolitan Contractor Improvement Partnership	OR
Oliver P Lent PTA	OR		
Willamette Valley Rehab Center	OR	The Christian Church of Hillsboro Oregonb	OR
St Paul Baptist Church	OR		
Long Tom Watershed Council	OR	Congregation Neveh Shalom	OR
San Martin Deporres Catholic Church	OR	My Fathers House	OR
Portland Parks Foundation	OR	Step Forward Activities Inc	OR
Sweet Home United Methodist Church	OR	HHoly Trinity Greek Orthodox Cathedral	OR
Cedar Hills Baptist Church	OR	MECOP Inc.	OR
Good Samaritan Ministries	OR	Workforce Northwest Inc	OR
Unitarian Universalist Church in Eugene	OR	Lane Arts Council	OR
Emmanuel Bible Church	OR	Building Healthy Family	OR
Portland Community Media	OR	Intergral Youth Services	OR
La Pine Chamber of Commerce	OR	Children Center At Trinity	OR
Stone Creek Christian Church	OR	Beaverton Christians Church	OR
Rogue Valley Youth Football	OR	Oregon Humanities	OR
		St. Pius X School	OR

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Community Connection of Northeast Oregon, Inc.	OR	REDMOND PROFICIENCY ACADEMY	OR
St Mark Presbyterian Church	OR	OHSU FOUNDATION	OR
Living Opportunities, Inc.	OR	SHELTERCARE	OR
Coos Art Museum	OR	PRINGLE CREEK SUSTAINABLE LIVING CENTER	OR
OETC	OR	PACIFIC INSTITUTES FOR RESEARCH	OR
Blanchet House of Hospitality	OR	Mental Health for Children, Inc.	OR
Garten Services Inc	OR	The Dreaming Zebra Foundation	OR
Incite Incorporated	OR	LAUREL HILL CENTER	OR
Merchants Exchange of Portland, Oregon	OR	THE OREGON COMMUNITY FOUNDATION	OR
Coalition for a Livable Future	OR	OCHIN	OR
West Salem United Methodist	OR	WE CARE OREGON	OR
Central Oregon Visitors Association	OR	SE WORKS	OR
Soroptimist International of Gold Beach, OR	OR	ENTERPRISE FOR EMPLOYMENT AND EDUCATION	OR
Real Life Christian Church	OR	OMNIMEDIX INSTITUTE	OR
Dayton Christian Church	OR	PORTLAND BUSINESS ALLIANCE	OR
Delphian School	OR	GATEWAY TO COLLEGE NATIONAL NETWORK	OR
AVON	OR	FOUNDATIONS FOR A BETTER OREGON	OR
EPUD-Emerald People's Utility District	OR	GOAL ONE COALITION	OR
Human Solutions, Inc.	OR	ATHENA LIBRARY FRIENDS ASSOCIATION	OR
The Wallace Medical Concern	OR	Coastal Family Health Center	OR
Boys & Girls Club of Salem, Marion & Polk Counties	OR	CENTER FOR COMMUNITY CHANGE	OR
The Ross Ragland Theater and Cultural Center	OR	STAND FOR CHILDREN	OR
Cascade Health Solutions	OR	ST. VINCENT DEPAUL OF LANE COUNTY	OR
Umpqua Community Health Center	OR	EAST SIDE FOURSQUARE CHURCH	OR
ALZHEIMERS NETWORK OF OREGON	OR	CORVALLIS MOUNTAIN RESCUE UNIT	OR
NATIONAL WILD TURKEY FEDERATION	OR	InventSuccess	OR
TILLAMOOK ESTUARIES PARTNERSHIP	OR	SHERIDAN JAPANESE SCHOOL FOUNDATION	OR
LIFEWORKS NW	OR	The Blosser Center for Dyslexia Resources	OR
Independent Development Enterprise Alliance	OR	MOSAIC CHURCH	OR
MID-WILLAMETTE VALLEY COMMUNITY ACTION AGENCY, INC	OR		
HALFWAY HOUSE SERVICES, INC.	OR		

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HOUSING AUTHORITY OF LINCOLN COUNTY	OR	OREGON MUSUEM OF SCIENCE AND INDUSTRY	OR
RENEWABLE NORTHWEST PROJECT	OR	FIRST UNITARIAN CHURCH	OR
INTERNATIONAL SUSTAINABLE DEVELOPMENT FOUNDATION	OR	ST. ANTHONY CHURCH	OR
CONSERVATION BIOLOGY INSTITUTE	OR	Good Shepherd Medical Center	OR
THE NATIONAL ASSOCIATION OF CREDIT MANAGEMENT-OREGON, INC.	OR	Salem Academy	OR
BLACHLY LANE ELECTRIC COOPERATIVE	OR	GEN CONF OF SDA CHURCH WESTERN OR	OR
MORNING STAR MISSIONARY BAPTIST CHURCH	OR	PORTLAND ADVENTIST ACADEMY	OR
NORTHWEST FOOD PROCESSORS ASSOCIATION	OR	ST VINCENT DE PAUL OUTSIDE IN	OR
INDEPENDENT INSURANCE AGENTS AND BROKERS OF OREGON	OR	UNITED CEREBRAL PALSY OF OR AND SW WA	OR
OREGON EDUCATION ASSOCIATION	OR	WILLAMETTE VIEW INC.	OR
HEARING AND SPEECH INSTITUTE INC	OR	PORTLAND HABILITATION CENTER, INC.	OR
SALEM ELECTRIC	OR	OREGON STATE UNIVERSITY ALUMNI ASSOCIATION	OR
MORRISON CHILD AND FAMILY SERVICES	OR	ROSE VILLA, INC.	OR
JUNIOR ACHIEVEMENT	OR	NORTHWEST LINE JOINT APPRENTICESHIP & TRAINING COMMITTEE	OR
CENTRAL BIBLE CHURCH	OR	BOYS AND GIRLS CLUBS OF PORTLAND METROPOLITAN AREA	OR
MID COLUMBIA MEDICAL CENTER-GREAT 'N SMALL	OR	ROGUE FEDERAL CREDIT UNION	OR
TRILLIUM FAMILY SERVICES, INC.	OR	Oregon Research Institute	OR
YWCA SALEM	OR	WILLAMETTE LUTHERAN HOMES, INC	OR
PORTLAND ART MUSEUM	OR	LANE MEMORIAL BLOOD BANK	OR
SAINT JAMES CATHOLIC CHURCH	OR	PORTLAND JEWISH ACADEMY	OR
SOUTHERN OREGON HUMANE SOCIETY	OR	LANECO FEDERAL CREDIT UNION	OR
VOLUNTEERS OF AMERICA OREGON	OR	GRANT PARK CHURCH	OR
CENTRAL DOUGLAS COUNTY FAMILY YMCA	OR	ST. MARYS OF MEDFORD, INC.	OR
METROPOLITAN FAMILY SERVICE	OR	US CONFERENCE OF MENONNITE BRETHREN CHURCHES	OR
		FAITHFUL SAVIOR MINISTRIES	OR
		OREGON CITY CHURCH OF THE NAZARENE	OR
		OREGON COAST COMMUNITY	OR

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ACTION		HELP NOW! ADVOCACY	OR
EDUCATION NORTHWEST	OR	CENTER	
COMMUNITY ACTION TEAM,	OR	TENAS ILLAHEE CHILDCARE	OR
INC.		CENTER	
EUGENE SYMPHONY	OR	SUNRISE ENTERPRISES	OR
ASSOCIATION, INC.		LOOKING GLASS YOUTH AND	OR
STAR OF HOPE ACTIVITY	OR	FAMILY SERVICES	
CENTER INC.		SERENITY LANE	OR
SPARC ENTERPRISES	OR	EAST HILL CHURCH	OR
SOUTHERN OREGON CHILD	OR	LA GRANDE UNITED	OR
AND FAMILY COUNCIL, INC.		METHODIST CHURCH	
SALEM ALLIANCE CHURCH	OR	COAST REHABILITATION	OR
Lane Council of Governments	OR	SERVICES	
FORD FAMILY FOUNDATION	OR	Edwards Center Inc	OR
TRAILS CLUB	OR	ALVORD-TAYLOR	OR
NEWBERG FRIENDS CHURCH	OR	INDEPENDENT LIVING	
WOODBURN AREA CHAMBER	OR	SERVICES	
OF COMMERCE		NEW HOPE COMMUNITY	OR
CONTEMPORARY CRAFTS	OR	CHURCH	
MUSEUM AND GALLERY		KLAMATH HOUSING	OR
CITY BIBLE CHURCH	OR	AUTHORITY	
OREGON LIONS SIGHT &	OR	QUADRIPLIGICS UNITED	OR
HEARING FOUNDATION		AGAINST DEPENDENCY, INC.	
PORTLAND WOMENS CRISIS	OR	SPONSORS, INC.	OR
LINE		COLUMBIA COMMUNITY	OR
THE SALVATION ARMY -	OR	MENTAL HEALTH	
CASCADE DIVISION		ADDICTIONS RECOVERY	OR
WILLAMETTE FAMILY	OR	CENTER, INC	
WHITE BIRD CLINIC	OR	METRO HOME SAFETY REPAIR	OR
GOODWILL INDUSTRIES OF	OR	PROGRAM	
LANE AND SOUTH COAST		OREGON SUPPORTED LIVING	OR
COUNTIES		PROGRAM	
PLANNED PARENTHOOD OF	OR	SOUTH COAST HOSPICE, INC.	OR
SOUTHWESTERN OREGON		ALLFOURONE/CRESTVIEW	OR
HOUSING NORTHWEST	OR	CONFERENCE CTR.	
OREGON ENVIRONMENTAL	OR	The International School	OR
COUNCIL		REBUILDING TOGETHER -	OR
MEALS ON WHEELS PEOPLE,	OR	PORTLAND INC.	
INC.		PENDLETON ACADEMIES	OR
FAITH CENTER	OR	PACIFIC FISHERY	OR
Bob Belloni Ranch, Inc.	OR	MANAGEMENT COUNCIL	
GOOD SHEPHERD	OR	DOGS FOR THE DEAF, INC.	OR
COMMUNITIES		PUBLIC DEFENDER SERVICES	OR
SACRED HEART CATHOLIC	OR	OF LANE COUNTY, INC.	
DAUGHTERS			

**Section 8**  
**U.S. Communities Additional Provisions**

EMMAUS CHRISTIAN SCHOOL	OR	PREGNANCY RESOUCE	OR
DELIGHT VALLEY CHURCH OF CHRIST	OR	CENTERS OF GRETER PORTLAND	
SAINT CATHERINE OF SIENA CHURCH	OR	ELMIRA CHURCH OF CHRIST	OR
PORT CITY DEVELOPMENT CENTER	OR	JASPER MOUNTAIN	OR
VIRGINIA GARCIA MEMORIAL HEALTH CENTER	OR	ACUMENTRA HEALTH WORKSYSTEMS INC	OR
CENTRAL CITY CONCERN	OR	COVENANT CHRISTIAN HOOD RIVER	OR
CANBY FOURSQUARE CHURCH	OR	OREGON DONOR PROGRAM	OR
EMERALD PUD	OR	NAMI OREGON	OR
VERMONT HILLS FAMILY LIFE CENTER	OR	OLIVET BAPTIST CHURCH	OR
BENTON HOSPICE SERVICE	OR	SILVERTON AREA COMMUNITY AID	OR
INTERNATIONAL SOCIETY FOR TECHNOLOGY IN EDUCATION	OR	CONFEDERATED TRIBES OF GRAND RONDE	OR
COMMUNITY CANCER CENTER	OR	NEIGHBORIMPACT	OR
OPEN MEADOW ALTERNATIVE SCHOOLS, INC.	OR	CATHOLIC COMMUNITY SERVICES	OR
CASCADIA BEHAVIORAL HEALTHCARE	OR	NEW AVENUES FOR YOUTH INC	OR
WILD SALMON CENTER	OR	LA CLINICA DEL CARINO FAMILY HEALTH CARE CENTER	OR
BROAD BASE PROGRAMS INC.	OR	DECISION SCIENCE RESEARCH INSTITUTE, INC.	OR
SUNNYSIDE FOURSQUARE CHURCH	OR	WESTERN STATES CENTER	OR
TRAINING EMPLOYMENT CONSORTIUM	OR	HIV ALLIANCE, INC	OR
RELEVANT LIFE CHURCH	OR	PARTNERSHIPS IN COMMUNITY LIVING, INC.	OR
211INFO	OR	FANCONI ANEMIA RESEARCH FUND INC.	OR
SONRISE CHURCH	OR	BLIND ENTERPRISES OF OREGON	OR
LIVING WAY FELLOWSHIP	OR	OREGON BALLET THEATRE	OR
Women's Safety & Resource Center	OR	SMART	OR
SEXUAL ASSAULT RESOURCE CENTER	OR	All God's Children International	OR
IRCO	OR	FARMWORKER HOUISNG DEV CORP	OR
NORTHWEST YOUTH CORPS	OR	UMPQUA COMMUNITY DEVELOPMENT CORPORATION	OR
TILLAMOOK CNTY WOMENS CRISIS CENTER	OR	REGIONAL ARTS AND CULTURE COUNCIL	OR
SECURITY FIRST CHILD DEVELOPMENT CENTER	OR	THE EARLY EDUCATION PROGRAM, INC.	OR
CLASSROOM LAW PROJECT	OR	MACDONALD CENTER	OR
YOUTH GUIDANCE ASSOC.	OR		

**Section 8**  
**U.S. Communities Additional Provisions**

EVERGREEN AVIATION MUSEUM AND CAP. MICHAEL KING.	OR	WORD OF LIFE COMMUNITY CHURCH	OR
SELF ENHANCEMENT INC.	OR	SOCIAL VENTURE PARTNERS PORTLAND	OR
FRIENDS OF THE CHILDREN	OR	OREGON PROGRESS FORUM	OR
SOUTH LANE FAMILY NURSERY DBA FAMILY RELIEF NURSE	OR	CENTER FOR RESEARCH TO PRACTICE	OR
COMMUNITY VETERINARY CENTER	OR	WESTERN RIVERS CONSERVANCY	OR
PORTLAND SCHOOLS FOUNDATION	OR	UNITED WAY OF THE COLUMBIA WILLAMETTE	OR
SUSTAINABLE NORTHWEST	OR	EUGENE BALLET COMPANY	OR
OREGON DEATH WITH DIGNITY	OR	EAST WEST MINISTRIES INTERNATIONAL	OR
BIRCH COMMUNITY SERVICES, INC.	OR	SISKIYOU INITIATIVE	OR
BAY AREA FIRST STEP, INC.	OR	EDUCATIONAL POLICY IMPROVEMENT CENTER	OR
OSLC COMMUNITY PROGRAMS EN AVANT, INC.	OR	North Pacific District of Foursquare Churches	OR
ASHLAND COMMUNITY HOSPITAL	OR	CATHOLIC CHARITIES	OR
NORTHWEST ENERGY EFFICIENCY ALLIANCE	OR	FIRST CHURCH OF THE NAZARENE	OR
BONNEVILLE ENVIRONMENTAL FOUNDATION	OR	WESTSIDE BAPTIST CHURCH Housing Development Center	OR
SUMMIT VIEW COVENANT CHURCH	OR	Hoodview Christian Church	OR
SALMON-SAFE INC.	OR	Child Evangelism Fellowship	OR
BETHEL CHURCH OF GOD	OR	Little Promises Children's Program	OR
PROVIDENCE HOOD RIVER MEMORIAL HOSPITAL	OR	UNION GOSPEL MISSION	OR
SAINT ANDREW NATIVITY SCHOOL	OR	GRACE BAPTIST CHURCH	OR
BARLOW YOUTH FOOTBALL	OR	COMMUNITY ACTION ORGANIZATION	OR
SPOTLIGHT THEATRE OF PLEASANT HILL	OR	OUTSIDE IN	OR
FAMILIES FIRST OF GRANT COUNTY, INC.	OR	MAKING MEMORIES BREAST CANCER FOUNDATION, INC.	OR
TOUCHSTONE PARENT ORGANIZATION	OR	ELAW	OR
CANCER CARE RESOURCES	OR	COMMUNITY HEALTH CENTER, INC	OR
CASCADIA REGION GREEN BUILDING COUNCIL	OR	Greater Portland INC	OR
SHERMAN DEVELOPMENT LEAGUE, INC.	OR	Eugene Builders Exchange	OR
SCIENCEWORKS	OR	Boys & Girls Club of Corvallis	OR
		Southeast Uplift Neighborhood Coalition	OR
		First United Presbyterian Church	OR
		PDX Wildlife	OR

**Section 8**  
**U.S. Communities Additional Provisions**

Friends of the Opera House	OR	Northwest Habitat Institute	OR
Jackson-Josephine 4-C Council	OR	Winding Waters Medical Clinic	OR
North Coast Family Fellowship	OR	First Baptist Church	OR
P E C I	OR	The Nature Conservancy, Willamette	OR
Childswork Learning Center	OR	Valley Field Office	
Portland Schools Alliance	OR	Serenity Lane Health Services	OR
New Artists Performing Arts	OR	Portland Community Reinvestment	OR
Productions, Inc.		Initiatives, Inc.	
Relief Nursery	OR	Christians As Family Adovates	OR
St. Mary's Episcopal Church	OR	GeerCrest Farm & Historical Society	OR
Viking Sal Senior Center	OR	College United Methodist Church	OR
Boys and Girls Club of the rogue	OR	The Collins Foundation	OR
valley		Prince of Peace Lutheran Church &	OR
Lincoln City Chamber of Commerce	OR	School	
DrupalCon Inc., DBA Drupal	OR	NEDCO	OR
Association		Salem Evangelical Church	OR
Albany Partnership for Housing and	OR	Wild Lilac Child Development	OR
Community Development		Community	
SEED OF FAITH MINISTRIES	OR	Daystar Education, Inc.	OR
Hermiston Christian Center & School	OR	Oregon Social Learning Center	OR
SALEM FREE CLINICS	OR	Pain Society of Oregon	OR
Dress for Success Oregon	OR	environmental law alliance worldwide	OR
Beaverton Rock Creek Foursquare	OR	Community in Action	OR
Church		Safe Harbors	OR
St Paul Catholic Church	OR	FIRST CHRISTIAN CHURCH	OR
St Mary's Catholic School and Parish	OR	Pacific Classical Ballet	OR
Polk Soil and Water Conservation	OR	Depaul Industries	OR
District		African American Health Coalition	OR
Street Ministry	OR	Jesus Prayer Book	OR
La Grande Church of the Nazarene	OR	Coalition Of Community Health	OR
Spruce Villa, Inc.	OR	River Network	OR
OREGON SCHOOL BOARDS	OR	CCI Enterprises Inc	OR
ASSOCIATION		Oregon Nurses Association	OR
House of Prayer for All Nations	OR	GOODWILL INDUSTRIES OF THE	OR
Sacred Heart Catholic Church	OR	COLUMBIA WILLAMETTE	
African American Health Coaliton,	OR	Mount Angel Abbey	OR
Inc.		YMCA OF ASHLAND	OR
Happy Canyon Company	OR	YMCA OF COLUMBIA-	OR
Village Home Education Resource	OR	WILLAMETTE ASSOCIATION	
Center		SERVICES	
Monet's Children's Circle	OR	Multnomah Law Library	OR
Cascade Housing Association	OR	Friends Of Tryon Creek State P	OR
Dayspring Fellowship	OR		

## Section 8

### U.S. Communities Additional Provisions

Ontrack Inc.	OR	Grace Chapel	OR
Calvin Presbyterian Church	OR	CHILDREN'S MUSEUM 2ND	OR
HOLT INTL CHILD	OR	Solid Rock	OR
St John The Baptist Catholic	OR	West Chehalem Friends Church	OR
Portland Foursquare Church	OR	Guide Dogs For The Blind	OR
Portland Christian Center	OR	Aldersgate Camps and Retreats	OR
Church Extension Plan	OR	St. Katherine's Catholic Church	OR
Occu Afghanistan Relief Effort	OR	The Alliance NW of the Christian &	OR
EUGENE FAMILY YMCA	OR	Missionary Alliance	
Christ The King Parish and School	OR	Bags of Love	OR
Newberg Christian Church	OR	Grand View Baptist Church	OR
First United Methodist Church	OR	Green Electronics Council	OR
Zion Lutheran Church	OR	Scottish Rite	OR
Southwest Bible Church	OR	Western Wood Products Association	OR
Community Works Inc	OR	THE NEXT DOOR	OR
Masonic Lodge Pearl 66	OR	NATIONAL PSORIASIS	OR
Molalla Nazarene Church	OR	FOUNDATION	
Transition Projects, Inc	OR	NEW BEGINNINGS CHRISTIAN	OR
St Michaels Episcopal Church	OR	CENTER	
Saint Johns Catholic Church	OR	HIGHLAND UNITED CHURCH OF	OR
Access Inc	OR	CHRIST	
Community Learning Center	OR	OREGON REPERTORY SINGERS	OR
Old Mill Center for Children and Families	OR	HIGHLAND HAVEN	OR
Sunny Oaks Inc	OR	FAIR SHARE RESEARCH AND	OR
Hospice Center Bend La Pine	OR	EDUCATION FUND	
Westside Foursquare Church	OR	Oregon Satsang Society, Inc., A	OR
Relief Nursery Inc	OR	chartered Affiliate of ECKANKAR ,	
Morning Star Community Church	OR	ECKA	
MULTNOMAH DEFENDERS INC	OR	First Baptist Church of Enterprise	OR
Providence Health System	OR	The Canby Center	OR
Holy Trinity Catholic Church	OR	REDMOND FIRE & RESCUE	OR
Holy Redeemer Catholic Church	OR	Instituto de Cultura y Arte In Xochitl	OR
Alliance Bible Church	OR	In Cuicatl	
CARE OREGON	OR	McKenzie Personnel Systems	OR
Mid Columbia Childrens Council	OR	OSLC COMMUNITY PROGRAMS	OR
HUMANE SOCIETY OF	OR	OCP	
REDMOND	OR	Oregon Nikkei Endowment	OR
Our Redeemer Lutheran Church	OR	Grace Community Church	OR
Kbps Public Radio	OR	Eastern Oregon Alcoholism	OR
Skyball Salem Keizer Youth Bas	OR	Foundation	
Open Technology Center	OR	Grantmakers for Education	OR
		The Spiral Gallery	OR
		The ALS Association Oregon and SW	OR
		Washington Chapter	

**Section 8**  
**U.S. Communities Additional Provisions**

Children's Relief Nursery	OR	LUKE DORF INC	OR
Home Builders	OR	FAMILY CARE INC	OR
New Life Baptist Church	OR	MEDICAL TEAMS INTL	OR
Feral Cat Awareness Team	OR	Clean Slate Canine Rescue & Rehabilitation	OR
Florence United Methodist Church	OR		
World of Speed	OR	St. Martins Episcopal church	OR
SW Community Health Center	OR	Food for Lane County	OR
Energy Trust of Oregon	OR	Clatsop Behavioral Healthcare	OR
St. Vincent de Paul Church	OR	columbia gorge discovery center and museum	OR
Fr. Bernard Youth Center	OR		
Oregon Psychoanalytic Center	OR	NAMI of Washington County	OR
Store to Door	OR	American Legion Aloha Post 104	OR
Oregon Translational Research and Development Insitute	OR	The Dalles Art Association	OR
Depaul Industries	OR	Temple Beth Israel	OR
OUR LADY OF PERPETUAL HELP CATHOLIC CHURCH ALBANY OREGON	OR	Willamette Leadership Academy/Pioneer Youth Corps Of Oregon	OR
SELCO Community Credit Union	OR	Rose Haven	OR
Prairie Baptist Church	OR	Dallas Church	OR
North Coast Christian Church	OR	OREGON STATE UNIVERSITY BOOKSTORE INC	OR
Union County Economic Development Corp.	OR	NORTH WILLAMETTE VALLEY HABITAT FOR HUMANITY	OR
Camelto Theatre Company	OR	FAIRFIELD BAPTIST CHURCH	OR
Camp Fire Columbia	OR	Sexual Assault Support Services	OR
TAKE III OUTREACH	OR	Neskowin Valley School	OR
Rolling Hills Community Church	OR	RON WILSON CENTER FOR EFFECTIVE LIVING INC	OR
Eugene Swim and Tennis Club	OR		
Summa Institute	OR	St. Joseph Shelter	OR
Amani Center	OR	The Inn Home for Boys, Inc.9138	OR
Billy Webb Elks lodge #1050	OR	MCKENZIEWATERSHED COUNCIL	OR
Silverton Senior Center	OR	Opportunity Connections	OR
First Evangelical Presbyterian Church of Oregon City	OR	MENNONITE HOME OF ALBANY INC	OR
Joyful Servant Lutheran Church	OR	Oregon Technical Assistance Corporation	OR
Sandy Seventh-day Adventist Church	OR		
Muddy Creek Charter School	OR	Oregon And Southern Idaho Laborers Employers Training School	OR
A FAMILY FOR EVERY CHILD	OR		
1000 FRIENDS OF OREGON	OR	New Life Fellowship Church of God	OR
OREGON PEDIATRIC SOCIETY	OR	Gladstone Senior Center	OR
NONPROFIT ASSOCIATION OF OREGON	OR	Education Travel & Culture, Inc.	OR

## Section 8

### U.S. Communities Additional Provisions

Rural Development Initiatives	OR	The Church of Christ of Latter Day Saints	OR
Jason Lee Manor/UMRC	OR		
Jesus Pursuit Church	OR	Cascade Height Public Charter School PTA	OR
YMCA of Marion and Polk Counties	OR		
PacificSource Health	OR	G.O.B.H.I	OR
Faith Christian Fellowship	OR	Association of Oregon Corrections Employees, Inc.	OR
Brookings Elks Lodge	OR		
Tualatin Lacrosse Club	OR	A Jesus Church Family	OR
Tillamook Seventh Day Adventist Church	OR	300 Main Inc	OR
		Southwestern Oregon Public Defender Services, Inc.	OR
Oregon Jewish Community Foundation	OR	Albertina Kerr Centers	OR
East River Fellowship	OR	Dufur Christian Church	OR
Holy Family Academy	OR	St. Matthew Catholic School	OR
FIRST BAPTIST CHURCH OF EUGENE	OR	Serendipity Center Inc	OR
PORTLAND METRO RESIDENTIAL SERVICES	OR	Yellowhawk Tribal Health	OR
		CASA of Marion County	OR
Peace Lutheran Church	OR	Oregoinans for Food & Shelter	OR
Living Word Christian Center	OR	Westside Church of Christ Inc	OR
Housing Authority of Douglas County	OR	Northwest Family Services	OR
		Network Charter School	OR
Vietnamese Christian Community Church	OR	Ride Connecton	OR
		Parenting Now!	OR
Forest Park Conservancy	OR	Christian Church of Woodburn	OR
Friends for Animals	OR	Verde	OR
Family Building Blocks	OR	Native American Youth and Family Center Early College Academy	OR
Goodwill Industries of Lane and South Coast	OR		
		USO Northwest	OR
Agia Sophia Academy	OR	Norkenzie Christian Church	OR
Friends of Driftwood Library	OR	Little Flower Development Center	OR
Consumers Power Inc.	OR	TLO Farms	OR
A. C. Gilbert's Discovery Village	OR	Evergreen Wings and Waves	OR
First Lutheran Church of Astoria	OR	Ascension Episcopal Parish	OR
Fund For Christian Charity	OR	Center for Family Development	OR
Deer Meadow Assisted Living	OR	West Salem Foursquare Church	OR
Oregon Laborers-Employer Administrative Fund, LLC	OR	Good Samaritan Ministry	OR
		Grace Lutheran Church of Molalla	OR
Umpqua Basin Water Association	OR	Trinity Lutheran	OR
Alpha Lambda House Corporation	OR	HOPE LUTHERAN CHURCH	OR
St John Fisher Catholic Church Portland Oregon	OR	Mount Pisgah Arboretum	OR
		Redeemer Lutheran Church	OR
Eugene Creative Care	OR	Disjecta Contemporary Art Center	OR

## Section 8

### U.S. Communities Additional Provisions

Korean Central Covenant Church of Eugene	OR	Smith Memorial Presbyterian Church	OR
Yankton Baptist Church	OR	Western Arts Alliance	OR
BioGift Anatomical	OR	Youth Dynamics	OR
Lower Columbia Estuary Partnership	OR	Ashland Art Center	OR
Mt Hood Hospice	OR	Apostolic Church of Jesus Christ	OR
Opportunity Foundation of central Oregon	OR	DOUGLAS FOREST PROTECTIVE	OR
Constructing Hope	OR	Oregon Lyme Disease Network	OR
Sprinkfield Elks #2145	OR	Ecotrust	OR
Abuse Recovery Ministry & Services	OR	SPECIAL MOBILITY SERVICES	OR
Oasis Shelter Home	OR	Bethlehem Christian Pre-School	OR
ST HENRYS CHURCH	OR	Historical Outreach Foundation	OR
Nehalem Bay House	OR	Texas Interventions and Counseling Inc	OR
UNITED METHODIST CHURCH	OR	Brooklyn Primary PTO	OR
p:ear	OR	Mountain View Academy	OR
Health Share of Oregon	OR	Salem Area Chamber of Commerce	OR
St. Peter Catholic Church	OR	First Congregational Chrch	OR
Mid Willamette Valley Community Action	OR	OREGON STATE FAIR	OR
A Hope For Autism Foundation	OR	Tri-County Chamber of Commerce Inc	OR
NW Sport Fishing	OR	Ronald McDonald House Charities of Oregon & Southwest Washington	OR
Breast Friends	OR	Center for Human Development	OR
SEPTL Southeast Portland Tool Library	OR	SafeHaven Humane Society	OR
Kids Unllimited Academy	OR	Rainier Assembly of God	OR
Cappella Romana	OR	EUGENE CHRISTIAN FELLOWSHIP	OR
National Christian Community Foundation	OR	Bridges to Change	OR
Legal Aid Services of Oregon LITC	OR	DePaul Treatment Centers, Inc.	OR
Willamette Valley Babe Ruth	OR	Ministerio International Casa	OR
Center For Continuous Improvement	OR	New Paradise Worship Center	OR
Northwest Center for Alternatives to Pesticides	OR	Mission Increase Foundation	OR
Junction City/Harrisburg/Monroe Habitat for Humanity	OR	Curry Public Transit Inc	OR
The Followers of Christ Church of Oregon City	OR	THREE RIVERS CASINO	OR
SEIU Local 49	OR	Brookings Harbor Christian School	OR
Emerald Media Group	OR	Bethesda Lutheran Church	OR
West Hills Christian School	OR	Legacy Mt. Hood Medical Center	OR
Trillium Sprigs	OR	Adelante Mujeres	OR
		Yamhill Community Care Organization	OR
		Portland Japanese Garden	OR
		The Madeleine Parish	OR
		The Tucker-Maxon Oral School	OR

**Section 8**  
**U.S. Communities Additional Provisions**

Southwest Neighborhoods, Inc	OR	THE MILL CASINO	OR
Wallowa Valley Center For Wellness	OR	Oregon State University	OR
KIDS INTERVENTION AND DIAGNOSTIC CENTER	OR	Treasure Valley Community College	OR
Portland Yacht Club	OR	Unviersity of Oregon	OR
League of Women Voters	OR	OREGON UNIVERSITY SYSTEM	OR
Oregon & Southern Idaho District Council of Laborers'	OR	University of Western States	OR
Portland Police Sunshine Division	OR	GEORGE FOX UNIVERSITY	OR
Curry Health Network	OR	LEWIS AND CLARK COLLEGE	OR
United Way of Lane County	OR	PACIFIC UNIVERSITY	OR
The Lighthouse School	OR	REED COLLEGE	OR
Great Portland Bible	OR	WILLAMETTE UNIVERSITY	OR
College Possible	OR	LINFIELD COLLEGE	OR
Unithed Way	OR	MULTNOMAH BIBLE COLLEGE	OR
Community Energy Project	OR	NORTHWEST CHRISTIAN COLLEGE	OR
Bridgeport Community Chapel	OR	NATIONAL COLLEGE OF NATURAL MEDICINE	OR
Portland Oregon Visitors Association	OR	BLUE MOUNTAIN COMMUNITY COLLEGE	OR
Southern Oregon Project Hope	OR	PORTLAND STATE UNIV.	OR
Our United Villages	OR	CLACKAMAS COMMUNITY COLLEGE	OR
Samaritan Health Services Inc.	OR	MARYLHURST UNIVERSITY	OR
Santiam Assembly of God	OR	OREGON HEALTH AND SCIENCE UNIVERSITY	OR
CASCADES WEST FINANCIAL SERVICES IN	OR	BIRTHINGWAY COLLEGE OF MIDWIFERY	OR
Kilchis House	OR	pacific u	OR
Calvary Assembly of God	OR	UNIVERSITY OF OREGON	OR
Lake Grove Presbyterian Church	OR	CONCORDIA UNIV	OR
Grace Lutheran School	OR	Marylhurst University	OR
Western Mennonite School	OR	Corban College	OR
OEA CHOICE TRUST	OR	Oregon Center For Advanced T	OR
American Tinnitus Association	OR	UNIVERSITY OF PORTLAND	OR
Oregon Coast Aquarium, Inc.	OR	Portland Actors Conservatory	OR
HOPE POINT CHURCH	OR	University Of Oregon Athletics Department	OR
Unitus Community Credit Union	OR	Ecola Bible School	OR
St John the Baptist Greek Orthodox Church	OR	WARNERPACIFIC COLG	OR
COLUMBIA PACIFIC ECONOMIC DEVELOPMENT DISTRICT OF OREGON	OR	Beta Omega Alumnae	OR
St Andrews Presbyterian	OR	Oregon Institute of Technology	OR
Oregon Rural Electric Cooperative Association	OR	EASTERN OREGON UNIVERSITY	OR
		Wilco Farmers	OR

## Section 8

### U.S. Communities Additional Provisions

Harvest Church	OR	Coquille Economic Development Corporation	OR
Society of American Foresters	OR		
Clackamas River Water Providers	OR	CITY/COUNTY INSURANCE SERVICE	OR
eickhoff dev co inc	OR	COMMUNITY CYCLING CENTER	OR
Cornerstone Association Inc	OR	Shangri La	OR
The Klamath Tribe	OR	Portland Impact	OR
advocate care	OR	Eagle Fern Camp	OR
Cannon Beach Fire	OR	KLAMATH FAMILY HEAD START	OR
Life Flight Network LLC	OR	RIVER CITY DANCERS	OR
OREGON DEPT OF FISH & WILDLIFE-SAUVIE	OR	Oregon Permit Technical Association	OR
COVENANT RETIREMENT COMMUNITIES	OR	KEIZER EAGLES AERIE 3895	OR
PENTAGON FEDERAL CREDIT UNION	OR	Pgma/Cathie Bourne	OR
SAIF CORPORATION	OR	Sunrise Water	OR
GREATER HILLSBORO AREA CHAMBER OF COMMERCE	OR	Burns Paiute Tribe	OR
LANE ELECTRIC COOPERATIVE	OR	Oregon Public Broadcasting	OR
USAGENCIES CREDIT UNION	OR	La Grande Family Practice	OR
PACIFIC CASCADE FEDERAL CREDIT UNION	OR	Linn Benton Lincoln Educational Services District	OR
LOCAL GOVERNMENT PERSONNEL INSTITUTE	OR	Ricoh USA	OR
GRANTS PASS MANAGEMENT SERVICES, DBA	OR	Sphere MD	OR
SPIRIT WIRELESS	OR	BIENESTAR, INC.	OR
Kartini Clinic	OR	sunrise water authority	OR
Astra	OR	Mountain Valley Therapy	OR
Beit Hallel	OR	EAsern Oregon Trade and Event Center	OR
Cvalco	OR	Waste-Pro	OR
Elderhealth and Living	OR	NPKA	OR
OREGON CORRECTIONS ENTERPRISES	OR	IBEW280	OR
OREGON STATE HOSPITAL	OR	Confederated Tribes of Warm Springs	OR
OFFICE OF PUBLIC DEFENSE SERVICES	OR	Point West Credit Union	OR
Clatskanie People's Utility District	OR	Oregon State Credit Union	OR
PIONEER COMMUNITY DEVELOPMENT	OR	PIONEER TELEPHONE COOPERATIVE	OR
MARION COUNTY HEALTH DEPT	OR	Halsey-Shedd Fire District	OR
Ricoh USA	OR	Northwest Power and Conservation Council	OR
Heartfelt Obstetrics & Gynecology	OR	Oregon Funeral Directors Association	OR
		Nez Perce Tribe	OR
		Obsidian Urgent Care, P.C.	OR
		First Presbyterian Church of La Grande	OR

**Section 8**  
**U.S. Communities Additional Provisions**

CONFLUENCE	OR	Tualatin Soil and Water Conservation District	OR
ENVIRONMENTAL CENTE			
A&I Benefit Plan Administrators, Inc.	OR	Silverton Fire District	OR
K Churchill Estates	OR	Lewis and Clark Rural Fire Protection District	OR
CSC HEAD START	OR		
NORTHWEST VINTAGE CAR AND MOTORCYCLE	OR	Rainbow Water District	OR
crescent grove cemetery	OR	Illinois Valley Fire District	OR
Port of Toledo	OR	Clatskanie RFPD	OR
Roseburg Police Department	OR	PORT OF TILLAMOOK BAY	OR
Molalla Rural Fire Protection District	OR	TRI-COUNTY HEALTH CARE SAFETY NET ENTERPRISE	OR
MONMOUTH - INDEPENDENCE NETWORK	OR	METROPOLITAN EXPOSITION-RECREATION COMMISSION	OR
EUGENE WATER & ELECTRIC BOARD	OR	REGIONAL AUTOMATED INFORMATION NETWORK	OR
MALIN COMMUNITY PARK AND RECREATION DISTRICT	OR	OAK LODGE WATER DISTRICT	OR
TILLAMOOK PEOPLES UTILITY DISTRICT	OR	THE PORT OF PORTLAND	OR
GLADSTONE POLICE DEPARTMENT	OR	WILLAMALANE PARK AND RECREATION DISTRICT	OR
GOLD BEACH POLICE DEPARTMENT	OR	TUALATIN VALLEY WATER DISTRICT	OR
THE NEWPORT PARK AND RECREATION CENTER	OR	UNION SOIL & WATER CONSERVATION DISTRICT	OR
RIVERGROVE WATER DISTRICT	OR	LANE EDUCATION SERVICE DISTRICT	OR
TUALATIN VALLEY FIRE & RESCUE	OR	TUALATIN HILLS PARK AND RECREATION DISTRICT	OR
GASTON RURAL FIRE DEPARTMENT	OR	PORT OF SIUSLAW	OR
CITY COUNTY INSURANCE SERVICES	OR	CHEHALEM PARK AND RECREATION DISTRICT	OR
SOUTH SUBURBAN SANITARY DISTRICT	OR	PORT OF ST HELENS	OR
SOUTH FORK WATER BOARD	OR	LANE TRANSIT DISTRICT	OR
SUNSET EMPIRE PARK AND RECREATION	OR	CENTRAL OREGON INTERGOVERNMENTAL COUNCIL	OR
SPRINGFIELD UTILITY BOARD	OR	HOODLAND FIRE DISTRICT NO.74	OR
Tillamook Urban Renewal Agency	OR	MID COLUMBIA COUNCIL OF GOVERNMENTS	OR
Netarts Water District	OR		
OAK LODGE SANITARY DISTRICT	OR	WEST MULTNOMAH SOIL AND WATER CONSERVATION DISTRICT	OR
Boardman Rural Fire Protection District	OR	SALEM AREA MASS TRANSIT DISTRICT	OR

**Section 8**  
**U.S. Communities Additional Provisions**

Banks Fire District #13	OR	Woodburn City Of	OR
KLAMATH COUNTY 9-1-1	OR	Brookings Fire / Rescue	OR
GLENDALÉ RURAL FIRE DISTRICT	OR	City of Veneta	OR
COLUMBIA 911 COMMUNICATIONS DISTRICT	OR	CITY OF DAMASCUS	OR
CLACKAMAS RIVER WATER NW POWER POOL	OR	Hermiston Fire & Emergency Svcs	OR
Lowell Rural Fire Protection District	OR	CEDAR MILL COMMUNITY LIBRARY	OR
TriMet Transit	OR	CITY OF LAKE OSWEGO	OR
Estacada Rural Fire District	OR	LEAGUE OF OREGON CITIES	OR
Keizer Fire District	OR	CITY OF SANDY	OR
State Accident Insurance Fund Corporation	OR	CITY OF ASTORIA OREGON	OR
Bend Metro Park & Recreation District	OR	CITY OF BEAVERTON	OR
Port of Hood River	OR	CITY OF BOARDMAN	OR
La Pine Park & Recreation District	OR	CITY OF CANBY	OR
Brookings- Harbor School District 17c	OR	CITY OF CANYONVILLE	OR
Siuslaw Public Library District	OR	CITY OF CENTRAL POINT	OR
Tri-County Metropolitan Transportation District of Oregon ("TriMet")	OR	POLICE DEPARTMENT	
Columbia River Fire & Rescue	OR	CITY OF CLATSKANIE	OR
Fern Ridge Library District	OR	CITY OF CONDON	OR
Bend Park and Recreation District	OR	CITY OF COOS BAY	OR
Port of Garibaldi	OR	CITY OF CORVALLIS	OR
Seal Rock Water District	OR	CITY OF CRESWELL	OR
Rockwood Water P.U.D.	OR	CITY OF ECHO	OR
Tillamook Fire District	OR	CITY OF ESTACADA	OR
Tillamook County Transportation Dist	OR	CITY OF EUGENE	OR
Central Lincoln People's Utility District	OR	CITY OF FAIRVIEW	OR
Jefferson Park and Recreation	OR	CITY OF GEARHART	OR
City of Monmouth / Public Works	OR	CITY OF GOLD HILL	OR
McMinnville Police Department	OR	CITY OF GRANTS PASS	OR
Long Creek School District	OR	CITY OF GRESHAM	OR
City of Sublimity	OR	CITY OF HILLSBORO	OR
City of Central Point Parks and Recreation	OR	CITY OF HOOD RIVER	OR
Gearhart Fire Department	OR	CITY OF JOHN DAY	OR
		CITY OF KLAMATH FALLS	OR
		CITY OF LA GRANDE	OR
		CITY OF MALIN	OR
		CITY OF MCMINNVILLE	OR
		CITY OF HALSEY	OR
		CITY OF MEDFORD	OR
		CITY OF MILL CITY	OR
		CITY OF MILWAUKIE	OR
		CITY OF MORO	OR

## Section 8

### U.S. Communities Additional Provisions

CITY OF MOSIER	OR	CITY OF DUNDEE	OR
CITY OF NEWBERG	OR	CITY OF AURORA	OR
CITY OF OREGON CITY	OR	THE CITY OF NEWPORT	OR
CITY OF PILOT ROCK	OR	CITY OF ALBANY	OR
CITY OF POWERS	OR	CITY OF ASHLAND	OR
RAINIER POLICE DEPARTMENT	OR	CITY OF LEBANON	OR
CITY OF REEDSPORT	OR	CITY OF PORTLAND	OR
CITY OF RIDDLE	OR	CITY OF SALEM	OR
CITY OF SCAPPOOSE	OR	CITY OF SPRINGFIELD	OR
CITY OF SEASIDE	OR	METRO	OR
CITY OF SILVERTON	OR	CITY OF BURNS	OR
CITY OF STAYTON	OR	CITY OF COTTAGE GROVE	OR
City of Troutdale	OR	CITY OF DALLAS	OR
CITY OF TUALATIN, OREGON	OR	CITY OF FALLS CITY	OR
CITY OF WARRENTON	OR	CITY OF PHOENIX	OR
CITY OF WEST LINN/PARKS	OR	CITY OF PRAIRIE CITY	OR
CITY OF WOODBURN	OR	CITY OF REDMOND	OR
CITY OF TIGARD, OREGON	OR	CITY OF SHERWOOD	OR
CITY OF AUMSVILLE	OR	City of junction city	OR
CITY OF PORT ORFORD	OR	City of Florence	OR
CITY OF EAGLE POINT	OR	Columbia Gorge Community	OR
CITY OF WOOD VILLAGE	OR	City of Dayton	OR
St. Helens, City of	OR	City of Carlton	OR
CITY OF WINSTON	OR	City of Pendleton Convention Center	OR
CITY OF COBURG	OR	City of Monmouth	OR
CITY OF NORTH PLAINS	OR	City of Philomath	OR
CITY OF GERVAIS	OR	City of Sheridan	OR
CITY OF YACHATS	OR	Seaside Public Library	OR
FLORENCE AREA CHAMBER OF COMMERCE	OR	City of Yoncalla	OR
PORTLAND DEVELOPMENT COMMISSION	OR	La Grande Police Department	OR
CITY OF CANNON BEACH OR	OR	Cove City Hall	OR
CITY OF ST. PAUL	OR	NW PORTLAND INDIAN HEALTH BOARD	OR
CITY OF ADAIR VILLAGE	OR	Portland Patrol Services	OR
CITY OF WILSONVILLE	OR	City Of Bend	OR
CITY OF HAPPY VALLEY	OR	City Of Coquille	OR
CITY OF SHADY COVE	OR	City Of Molalla	OR
CITY OF LAKESIDE	OR	ROCKWOOD WATER PEOPLE'S UTILITY DISTRICT	OR
CITY OF MILLERSBURG	OR	City of St. Helens	OR
CITY OF GATES	OR	City of North Powder	OR
KEIZER POLICE DEPARTMENT	OR	City of Eugene	OR

**Section 8**  
**U.S. Communities Additional Provisions**

City of Cornelius, OR	OR	Clatsop Care Health District-Clatsop Retirement Village	OR
Toledo Police Department	OR		
City of Independence	OR	Netarts-Oceanside RFPD	OR
City of Cascade Locks	OR	UIUC	OR
City of Columbia City	OR	Rogue River Fire District	OR
City of Baker City	OR	Aurora Rural Fire District	OR
McMinnville Water & Light	OR	Tillamook County Emergency Communications District	OR
City of Pendleton Parks & Recreation	OR		
CITY OF HEPPNER	OR	Southern Coos Hospital	OR
CITY OF SWEETHOME	OR	Oregon Cascades West Council of Governments	OR
CITY OF THE DALLES	OR		
CLACKAMAS FIRE DIST#1	OR	MULTONAH COUNTY DRAINAGE DISTRICT #1	OR
DESCHUTES PUBLIC LIBRARY	OR		
STAYTON FIRE DISTRICT	OR	PORT OF BANDON	OR
Lake County Chamber of Commerce Inc	OR	OR INT'L PORT OF COOS BAY	OR
City of Ontario	OR	MID-COLUMBIA CENTER FOR LIVING	OR
City of Corvallis Parks and Recreation	OR	DESCHUTES COUNTY RFPD NO.2	OR
North Lincoln Fire & Rescue #1	OR	YOUNGS RIVER LEWIS AND CLARK WATER DISTRICT	OR
Gresham Police Department	OR		
City of Harrisburg	OR	PACIFIC STATES MARINE FISHERIES COMMISSION	OR
Gladstone Public Library	OR		
City of Portland Parks Bureau	OR	CENTRAL OREGON IRRIGATION DISTRICT	OR
City of Astoria Parks Dept.	OR		
Seaside Fire & Rescue	OR	MARION COUNTY FIRE DISTRICT #1	OR
Florence Police Department	OR		
City Of North Bend	OR	COLUMBIA RIVER PUD	OR
City of Union	OR	SANDY FIRE DISTRICT NO. 72	OR
City of Nehalem	OR	BAY AREA HOSPITAL DISTRICT	OR
City of Richland	OR	NEAH KAH NIE WATER DISTRICT	OR
CITY OF LINCOLN CITY	OR	PORT OF UMPQUA	OR
City of Donald	OR	EAST MULTNOMAH SOIL AND WATER CONSERVANCY	OR
City of Milton-Freewater	OR		
CITY OF SCIO	OR	Benton Soil & Water Conservation District	OR
City of Forest Grove	OR		
City Govrnment	OR	DESCHUTES PUBLIC LIBRARY SYSTEM	OR
City of Mt. Angel	OR		
Albany Police Department	OR	CLEAN WATER SERVICES	OR
Umatilla Electric Cooperative	OR	North Douglas County Fire & EMS	OR
WATER ENVIRONMENT SERVICES	OR	Crooked River Ranch Rural Fire Protection District	OR
Polk County Fire District No.1	OR		

**Section 8**  
**U.S. Communities Additional Provisions**

PARROTT CREEK CHILD & FAM	OR	OREGON TOURISM	OR
South Lane County Fire And Rescue	OR	COMMISSION	
Lake Chinook Fire & Rescue	OR	OREGON STATE POLICE	OR
Clackamas County Water	OR	OFFICE OF THE STATE	OR
Environment Services		TREASURER	
Amity Fire District	OR	OREGON DEPT. OF EDUCATION	OR
CENTRAL OREGON	OR	SEIU LOCAL 503, OPEU	OR
COMMUNITY COLLEGE		OREGON DEPARTMENT OF	OR
UMPQUA COMMUNITY	OR	FORESTRY	
COLLEGE		OREGON STATE DEPT OF	OR
LANE COMMUNITY COLLEGE	OR	CORRECTIONS	
MT. HOOD COMMUNITY	OR	OREGON CHILD DEVELOPMENT	OR
COLLEGE		COALITION	
LINN-BENTON COMMUNITY	OR	OFFICE OF MEDICAL	OR
COLLEGE		ASSISTANCE PROGRAMS	
SOUTHWESTERN OREGON	OR	OREGON OFFICE OF ENERGY	OR
COMMUNITY COLLEGE		OREGON STATE BOARD OF	OR
PORTLAND COMMUNITY	OR	NURSING	
COLLEGE		BOARD OF MEDICAL	OR
CHEMEKETA COMMUNITY	OR	EXAMINERS	
COLLEGE		OREGON LOTTERY	OR
ROGUE COMMUNITY COLLEGE	OR	OREGON BOARD OF	OR
COLUMBIA GORGE	OR	ARCHITECTS	
COMMUNITY COLLEGE		SANTIAM CANYON	OR
TILLAMOOK BAY COMMUNITY	OR	COMMUNICATION CENTER	
COLLEGE		OREGON DEPT OF	OR
KLAMATH COMMUNITY	OR	TRANSPORTATION	
COLLEGE DISTRICT		OREGON TRAVEL	OR
Oregon Coast Community College	OR	INFORMATION COUNCIL	
Clatsop Community College	OR	OREGON DEPARTMENT OF	OR
North Portland Bible College	OR	EDUCATION	
OREGON COMMUNITY	OR	OREGON DEPT. OF	OR
COLLEGE ASSOCIATION		CORRECTIONS	
Umpqua Valley Public Defender	OR	DEPARTMENT OF	OR
Teacher Standards and Practices	OR	ADMINISTRATIVE SERVICES	
Commission		Oregon Board of Massage Therapists	OR
Salem Keizer School District	OR	Oregon Tradeswomen	OR
Purchasing		Oregon Convention Center	OR
Kdrv Channel 12	OR	OREGON SCHL BRDS ASSOCIAT	OR
Opta Oregon Permit Technician	OR	Central Oregon Home Health and Hos	OR
Oregon Forest Resources Institute	OR	Oregon Health Care Quality Cor	OR
Office of the Ong Term Care	OR	OREGON DEPARTMENT OF	OR
Ombudsman		HUMAN SERVICES	
Oregon State Lottery	OR	Oregon Air National Guard	OR
		Training & Employment	OR

**Section 8**  
**U.S. Communities Additional Provisions**

State of Oregon - Department of Administrative Services	OR	HOUSING AUTHORITY OF THE CITY OF SALEM	OR
Aging and People with Disabilities	OR	Housing Authority of Yamhill County	OR
Department of Administrative Services	OR	The Housing Authority of the County of Umatilla	OR
Oregon State Treasury	OR	homeforward	OR
Oregon State Fair Council	OR	Hawaii County	
Oregon DEQ	OR	Honolulu County	
Procurement Services/DAS	OR	Kauai County	
STATE OF OREGON	OR	Maui County	
OREGON JUDICIAL DEPARTMENT	OR	Kalawao County	
Oregon State Board of Architect Examiners	OR	Aiea	
		Anahola	
City of Astoria Fire Department	OR	Barbers Point N A S	
Columbia Gorge ESD	OR	Camp H M Smith	
Nehalem Bay Wastewater	OR	Captain Cook	
Association of Oregon Community Mental Health Programs	OR	Eleele	
VA	OR	Ewa Beach	
US FISH AND WILDLIFE SERVICE	OR	Fort Shafter	
Bonneville Power Administration	OR	Haiku	
Bureau Of Land Management	OR	Hakalau	
Oregon Army National Guard	OR	Haleiwa	
USDA Forest Service	OR	Hana	
Yellowhawk Tribal Health Center	OR	Hanalei	
ANGELL JOB CORPS	OR	Hanamaulu	
Coquille Indian Housing Authority	OR	Hanapepe	
COLLEGE HOUSING NORTHWEST	OR	Hauula	
HOUSING AUTHORITY OF CLACKAMAS COUNTY	OR	Hawaii National Park	
HOUSING AUTHORITY OF PORTLAND	OR	Hawaiian Ocean View	
WEST VALLEY HOUSING AUTHORITY	OR	Hawi	
HOUSING AUTHORITY AND COMMUNITY SERVICES AGENCY	OR	Hickam AFB	
NORTH BEND CITY- COOS/URRY HOUSING AUTHORITY	OR	Hilo	
MARION COUNTY HOUSING AUTHORITY	OR	Holualoa	
		Honaunau	
		Honokaa	
		Honolulu	
		Honomu	
		Hoolehua	
		Kaaawa	
		Kahuku	
		Kahului	
		Kailua	

## Section 8

### U.S. Communities Additional Provisions

Kailua Kona	Pahoa
Kalaheo	Paia
Kalaupapa	Papaaloa
Kamuela	Papaikou
Kaneohe	Pearl City
Kapaa	Pearl Harbor
Kapaau	Pepeekeo
Kapolei	Princeville
Kaumakani	Pukalani
Kaunakakai	Puunene
Kawela Bay	Schofield Barracks
Keaau	Tripler Army Medical Center
Kealakekua	Volvano
Kealia	Wahiawa
Keauhou	Waialua
Kekaha	Waianae
Kihei	Waikoloa
Kilauea	Wailuku
Koloa	Waimanalo
Kualapuu	Waimea
Kula	Waipahu
Kunia	Wake Island
Kurtistown	Wheeler Army Airfield
Lahaina	Brigham Young University - Hawaii
Laie	Chaminade University of Honolulu
Lanai City	Hawaii Business College
Laupahoehoe	Hawaii Pacific University
Lawai	Hawaii Technology Institute
Lihue	Heald College - Honolulu
M C B H Kaneohe Bay	Remington College - Honolulu
Makawao	Campus
Makaweli	University of Phoenix - Hawaii
Maunaloa	Campus
Mililani	Hawaii Community College
Mountain View	Honolulu Community College
Naalehu	Kapiolani Community College
Ninole	Kauai Community College
Ocean View	Leeward Community College
Ookala	Maui Community College
Paauhau	University of Hawaii at Hilo
Paauilo	University of Hawaii at Manoa
Pahala	Windward Community College

## Section 8

# U.S. Communities Additional Provisions

### FEMA STANDARD TERMS AND CONDITIONS ADDENDUM FOR CONTRACTS AND GRANTS

If any purchase made under the Master Agreement is funded in whole or in part by Federal Emergency Management Agency (“FEMA”) grants, Contractor shall comply with all federal laws and regulations applicable to the receipt of FEMA grants, including, but not limited to the contractual procedures set forth in Title 44 of the Code of Federal Regulations, Part 13 (“44 CFR 13”).

In addition, Contractor agrees to the following specific provisions:

1. Pursuant to 44 CFR 13.36(i)(1), City is entitled to exercise all administrative, contractual, or other remedies permitted by law to enforce Contractor’s compliance with the terms of this Master Agreement, including but not limited to those remedies set forth at 44 CFR 13.43.
2. Pursuant to 44 CFR 13.36(i)(2), City may terminate the Master Agreement for cause or convenience in accordance with the procedures set forth in the Master Agreement and those provided by 44 CFR 13.44.
3. Pursuant to 44 CFR 13.36(i)(3)-(6)(12), and (13), Contractor shall comply with the following federal laws:
  - a. Executive Order 11246 of September 24, 1965, entitled “Equal Employment Opportunity,” as amended by Executive Order 11375 of October 13, 1967, and as supplemented in Department of Labor (“DOL”) regulations (41 CFR Ch. 60);
  - b. Copeland “Anti-Kickback” Act (18 U.S.C. 874), as supplemented in DOL regulations (29 CFR Part 3);
  - c. Davis-Bacon Act (40 U.S.C. 276a-276a-7) as supplemented by DOL regulations (29 CFR Part 5);
  - d. Section 103 and 107 of the Contract Work Hours and Safety Standards Act (40 U.S.C. 327-330) as supplemented by DOL regulations (29 CFR Part 5);
  - e. Section 306 of the Clean Air Act (42 U.S.C. 1857(h), section 508 of the Clean Water Act (33 U.S.C. 1368), Executive Order 11738, and Environmental Protection Agency regulations (40 CFR part 15); and
  - f. Mandatory standards and policies relating to energy efficiency which are contained in the state energy conservation plan issued in compliance with the Energy Policy and Conservation Act (Pub. L. 94-163, 89 Stat. 871).
4. Pursuant to 44 CFR 13.36(i)(7), Contractor shall comply with FEMA requirements and regulations pertaining to reporting, including but not limited to those set forth at 44 CFR 40 and 41.

## Section 8

### U.S. Communities Additional Provisions

5. Pursuant to 44 CFR 13.36(i)(8), Contractor agrees to the following provisions regarding patents:

a. All rights to inventions and/or discoveries that arise or are developed, in the course of or under this Agreement, shall belong to the City and be disposed of in accordance with City policy. The City, at its own discretion, may file for patents in connection with all rights to any such inventions and/or discoveries.

6. Pursuant to 44 CFR 13.36(i)(9), Contractor agrees to the following provisions, regarding copyrights:

a. If this Agreement results in any copyrightable material or inventions, in accordance with 44 CFR 13.34, FEMA reserves a royalty-free, nonexclusive, and irrevocable license to reproduce, publish or otherwise use, for Federal Government purposes:

- (1) The copyright in any work developed under a grant or contract; and
- (2) Any rights of copyright to which a grantee or a contractor purchases ownership with grant support.

7. Pursuant to 44 CFR 13.36(i)(10), Contractor shall maintain any books, documents, papers, and records of the Contractor which are directly pertinent to this Master Agreement. At any time during normal business hours and as often as City deems necessary, Contractor shall permit City, FEMA, the Comptroller General of United States, or any of their duly authorized representatives to inspect and photocopy such records for the purpose of making audit, examination, excerpts, and transcriptions.

8. Pursuant to 44 CFR 13.36(i)(11), Contractor shall retain all required records for three years after FEMA or City makes final payments and all other pending matters are closed. In addition, Contractor shall comply with record retention requirements set forth in 44 CFR 13.42.

**Section 8**  
**U.S. Communities Additional Provisions**

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**COMMUNITY DEVELOPMENT BLOCK GRANT ADDENDUM**

Purchases made under this contract may be partially or fully funded with federal grant funds. Funding for this work may include Federal Funding sources, including Community Development Block Grant (CDBG) funds from the U.S. Department of Housing and Urban Development. When such funding is provided, Contractor shall comply with all terms, conditions and requirements enumerated by the grant funding source, as well as requirements of the State statutes for which the contract is utilized, whichever is the more restrictive requirement. When using Federal Funding, Contractor shall comply with all wage and latest reporting provisions of the Federal Davis-Bacon Act. HUD-4010 Labor Provisions also applies to this contract.

**Section 8**

**U.S. Communities Additional Provisions**

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**UNIFORM ADMINISTRATIVE REQUIREMENTS**

By entering into this Contract the Contractor agrees to comply with all applicable provisions of Title 2, Subtitle A, Chapter II, PART 200—UNIFORM ADMINISTRATIVE REQUIREMENTS, COST PRINCIPLES, AND AUDIT REQUIREMENTS FOR FEDERAL AWARDS contained in Title 2 C.F.R. § 200 et seq.

**EXHIBIT A – SAMPLE CITY CONTRACT**

As used in this Section of the RFP, the term “Contract” shall refer to the agreement entered into between the City and the Company, and the term “Company” shall refer to the vendor that has been awarded a contract.

**RECITALS**

**WHEREAS**, the City issued a Request For Proposals (RFP # 269-2017-028) for Playground Equipment, Outdoor Fitness Equipment, Surfacing, Site Accessories and Related Products and Services dated JANURARY 25, 2017. This Request for Proposals together with all attachments and addenda, is referred to herein as the “RFP”; and

**WHEREAS**, the City desires that the Company provide certain Playground & Fitness Equipment, Surfacing, Site Accessories and Related Products and Services (“Services”), and the Company desires to provide such Services; and

**WHEREAS**, the City and the Company have negotiated and agreed regarding the above-referenced Services and desire to reduce the terms and conditions of their agreement to this written form.

**NOW, THEREFORE**, for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, and in further consideration of the covenants and representations contained herein, the parties agree as follows:

**CONTRACT**

**1. EXHIBITS.**

The Exhibits below are hereby incorporated into and made a part of this Contract. In interpreting this Contract and resolving any ambiguities, the main body of this Contract will take precedence over the Exhibits, and any inconsistency between the Exhibits will be resolved in the order in which the Exhibits appear below. Each reference to COMPANY NAME in the Exhibits and Appendices shall be deemed to mean the Company.

- 1.1. EXHIBIT A: Discount Schedule, Price Lists, And Incentives
- 1.2. EXHIBIT B: Installation Fees
- 1.3. EXHIBIT C: National Network Of Distributors And Installers
- 1.4. EXHIBIT D: Freight Rate Schedules
- 1.5. EXHIBIT E: Product Warranties
- 1.6. EXHIBIT F: Scope of Work
- 1.7. EXHIBIT G: U.S. Communities Administrative Agreement

**2. DEFINITIONS.**

This section may include, but not be limited to, terms defined in Section 1 of the RFP.

**3. DESCRIPTION OF PRODUCTS AND SERVICES.**

- 3.1. The Company shall be responsible for providing the Products and Services referenced in: (a) this Agreement, including in all Exhibits; (b) the Company’s proposal; (c) the RFP; (d) the Documentation; and (e) any functional and/or technical specifications which are published or provided by the Company or its licensors or suppliers from time to time with respect to all or any part the Products and Services. and incorporated herein by reference. Without limiting the foregoing, the Company’s proposal will only take precedence over the RFP to the extent the Company properly

took exception to the terms of the RFP in the manner required by the RFP.

**4. COMPENSATION.**

**4.1. TOTAL FEES AND CHARGES**

The City agrees to pay the Company a fixed price (the “Purchase Price”) as full and complete consideration for the satisfactory performance of all the requirements of this Contract. This amount constitutes the maximum total fees and charges payable to the Company under this Contract including Expenses and will not be increased except by a written instrument duly executed by both parties, which expressly states that it amends this Section of the Contract.

**4.2. NO EXPENSES CHARGEABLE.**

The Company shall not be entitled to charge the City for any travel, mileage, meals, materials or other costs or expenses associated with this Contract.

**4.3. EMPLOYMENT TAXES AND EMPLOYEE BENEFITS.**

The Company represents and warrants that the employees provided by the Company to perform the Services are actual employees of the Company, and that the Company shall be responsible for providing all salary and other applicable benefits to each Company employee. The Company further represents, warrants and covenants that it will pay all withholding tax, social security, Medicare, unemployment tax, worker’s compensation and other payments and deductions that are required by law for each Company employee. The Company agrees that the Company employees are not employees of the City.

**4.4. INVOICES.**

Each invoice sent by the Company shall detail all Services performed and delivered which are necessary to entitle the Company to the requested payment under the terms of this Contract. All invoices must include the City purchase order number for purchases made under the Contract. Purchase order numbers will be provided by the City. Invoices must be submitted with lines matching those on the City-provided purchase order.

The Company shall email all invoices to [cocap@charlottenc.gov](mailto:cocap@charlottenc.gov) with Accounts Payable (or AP) in the subject line.

Invoices that are addressed directly to City departments and not to Accounts Payable may not be handled as quickly as invoices that are addressed correctly.

**4.5. DUE DATE OF INVOICES.**

Payment of invoices shall be due within thirty (30) days after receipt of an accurate, undisputed properly submitted invoice by the City.

**4.6. PRE-CONTRACT COSTS.**

The City shall not be charged for any Services or other work performed by the Company prior to the Effective Date of this Contract.

**4.7. AUDIT.**

During the term of this Contract and for a period of one (1) year after termination of this Contract, the City shall have the right to audit, either itself or through an independent auditor, all books and records and facilities of the Company necessary to evaluate Company’s compliance with the terms and conditions of this Contract or the City’s payment obligations. The City shall pay its own expenses, relating to such audits, but shall not have to pay any expenses or additional costs of the Company. However, if non-compliance is found that would have cost the City in excess of

\$10,000 but for the audit, then the Company shall be required to reimburse the City for the cost of the audit.

**5. TIME IS OF THE ESSENCE.**

Time is of the essence in having the Company perform all Services and deliver all Deliverables within the time frames provided by this Contract and Exhibit B, including all completion dates, response times and resolution times (the “Completion Dates”). Except as specifically stated in this Contract, there shall be no extensions of the Completion Dates. All references to days in this Contract (including the Exhibits) shall refer to calendar days rather than business days, unless this Contract provides otherwise for a specific situation.

**6. NON-APPROPRIATION OF FUNDS.**

If the Charlotte City Council does not appropriate the funding needed by the City to make payments under this Contract for any given fiscal year, the City will not be obligated to pay amounts due beyond the end of the last fiscal year for which funds were appropriated. In such event, the City will promptly notify the Company of the non-appropriation and this Contract will be terminated at the end of the fiscal year for which the funds were appropriated. No act or omission by the City, which is attributable to non-appropriation of funds shall constitute a breach of or default under this Contract.

**7. COMPANY PROJECT MANAGER.**

The duties of the Company Project Manager include, but are not limited to:

- 7.1. Coordination of Project schedules and the Company’s resource assignment based upon the City’s requirements and schedule constraints;
- 7.2. Management of the overall Project by monitoring and reporting on the status of the Project and actual versus projected progress, and by consulting with the City’s Project Manager when deviations occur and by documenting all such deviations in accordance with agreed upon change control procedures;
- 7.3. Provision of consultation and advice to the City on matters related to Project implementation strategies, key decisions and approaches, and Project operational concerns/issues and acting as a conduit to the Company’s specialist resources that may be needed to supplement the Company’s normal implementation staff;
- 7.4. Acting as the Company’s point of contact for all aspects of contract administration, including invoicing for Services, and status reporting;
- 7.5. Facilitation of review meetings and conferences between the City and the Company’s executives when scheduled or requested by the City;
- 7.6. Communication among and between the City and the Company’s staff;
- 7.7. Promptly responding to the City Project Manager when consulted in writing or by E-mail with respect to Project deviations and necessary documentation;
- 7.8. Identifying and providing the City with timely written notice of all issues that may threaten the Company’s Services in the manner contemplated by the Contract (with “timely” meaning immediately after the Company becomes aware of them);
- 7.9. Ensuring that adequate quality assurance procedures are in place throughout the Contract; and
- 7.10. Meeting with other service providers working on City projects that relate to this effort as necessary to resolve problems and coordinate the Services.

**8. CITY PROJECT MANAGER.**

The duties of the City Project Manager are to (1) ensure that the Company delivers all requirements and specifications in the Contract; (2) coordinate the City's resource assignment as required to fulfill the City's obligations pursuant to the Contract; (3) promptly respond to the Company Project Manager when consulted in writing or by E-mail with respect to project issues; and (4) act as the City's point of contact for all aspects of the Services including contract administration and coordination of communication with the City's staff. The City shall be allowed to change staffing for the City Project Manager position on one (1) business day's notice to the Company.

**9. DUTY OF COMPANY TO IDENTIFY AND REQUEST INFORMATION, PERSONNEL AND FACILITIES.**

The Company shall identify and request in writing from the City in a timely manner: (i) all information reasonably required by the Company to perform each task comprising the Services, (ii) the City's personnel whose presence or assistance reasonably may be required by the Company to perform each task comprising the Services, and (iii) any other equipment, facility or resource reasonably required by the Company to perform the Services. Notwithstanding the foregoing, the Company shall not be entitled to request that the City provide information, personnel or facilities other than those that Exhibit B specifically requires the City to provide, unless the City can do so at no significant cost. The Company shall not be relieved of any failure to perform under this Contract by virtue of the City's failure to provide any information, personnel, equipment, facilities or resources: (i) that the Company failed to identify and request in writing from the City pursuant to this Section; or (ii) that the City is not required to provide pursuant to this Contract. In the event the City fails to provide any information, personnel, facility or resource that it is required to provide under this Section, the Company shall notify the City in writing immediately in accordance with the notice provision of this Contract. Failure to do so shall constitute a waiver by Company of any claim or defense it may otherwise have based on the City's failure to provide such information, personnel, facility or resource.

**10. COMPANY PERSONNEL REMOVAL, REPLACEMENT, PROMOTION, ETC.**

The City will have the right to require the removal and replacement of any personnel of the Company or the Company's subcontractors who are assigned to provide Services to the City based on experience, qualifications, performance, conduct, compatibility, and violation of City policy or any other reasonable grounds. The addition or promotion of any personnel to key positions within the Project must be approved by the City in writing. The Company will replace any personnel that leave the Project, with persons having at least equivalent qualifications who are approved by the City in writing. As used in this Contract, the "personnel" includes all staff provided by the Company or its subcontractors.

**11. BACKGROUND CHECKS.**

Prior to starting work under this Contract, the Company is required to conduct a background check on each Company employee assigned to work under this Contract, and shall require its subcontractors (if any) to perform a background check on each of their employees assigned to work under this Contract (collectively, the "Background Checks"). Each Background Check must include: (a) the person's criminal conviction record from the states and counties where the person lives or has lived in the past seven (7) years; and (b) a reference check.

After starting work under this Contract, the Company is required to perform a Background Check for each new Company employee assigned to work under this Contract during that year, and shall require its subcontractors (if any) to do the same for each of their employees. If the Company undertakes a new project under this Contract, then prior to commencing performance of the project the Company shall perform a Background Check for each

Company employee assigned to work on the project, and shall require its subcontractors (if any) to do the same for each of their employees.

If a person's duties under this Contract fall within the categories described below, the Background Checks that the Company will be required to perform (and to have its subcontractors perform) shall also include the following additional investigation:

The Company must follow all State and Federal laws when conducting Background Checks, including but not limited to the Fair Credit Reporting Act requirements, and shall require its subcontractors to do the same.

The Company shall notify the City of any information discovered in the Background Checks that may be of potential concern for any reason.

The City may conduct its own background checks on principals of the Company as the City deems appropriate. By operation of the public records law, background checks conducted by the City are subject to public review upon request.

- 12. ACCEPTANCE OF TASKS AND DELIVERABLES** Within a reasonable time after a particular Deliverable has been completed (or such specific time as may be set forth in Exhibit B), the Company shall submit a written notice to the City's Project Manager stating the Deliverable(s) that have been met. This notice shall include a signature page for sign-off by the City Project Manager indicating acceptance of such Deliverable(s).

If the City Project Manager is not satisfied that the Deliverable(s) has been met, a notice of rejection (a "Rejection Notice") shall be submitted to the Company by the City Project Manager that specifies the nature and scope of the deficiencies that the City wants corrected. Upon receipt of a Rejection Notice, the Company shall: (a) act diligently and promptly to correct all deficiencies identified in the Rejection Notice, and (b) immediately upon completing such corrections give the City a written, dated certification that all deficiencies have been corrected (the "Certification"). In the event the Company fails to correct all deficiencies identified in the Rejection Notice and provide a Certification within thirty- (30) days after receipt of the Rejection Notice, the City shall be entitled to terminate this Contract for default without further obligation to the Company and without obligation to pay for the defective work.

Upon receipt of the corrected Deliverable(s), or a Certification, whichever is later, the above-described Acceptance procedure shall recommence. The City shall not be obligated to allow the Company to recommence curative action with respect to any deficiency previously identified in a Rejection Notice, or more than once for any given Deliverable (and shall be entitled to terminate this Contract for default if the Company does not meet this time frame).

- 13. NON-EXCLUSIVITY.**

The Company acknowledges that it is one of several providers of Professional Services to the City and the City does not represent that it is obligated to contract with the Company for any particular project.

- 14. EACH PARTY TO BEAR ITS OWN NEGOTIATION COSTS.**

Each party shall bear its own cost of negotiating this Contract and developing the exhibits. The City shall not be charged for any Services or other work performed by the Company prior to the Effective Date.

- 15. REPRESENTATIONS AND WARRANTIES OF COMPANY.**

15.1. GENERAL WARRANTIES.

15.1.1. The Services shall satisfy all requirements set forth in the Contract, including but not limited to the attached Exhibits;

**Exhibit A**  
**Sample City Contract**

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- 15.1.2. The Services provided by the Company under the Contract will not infringe or misappropriate any patent, copyright, trademark, or trade secret rights of any third party;
  - 15.1.3. The Company has taken and will continue to take sufficient precautions to ensure that it will not be prevented from performing all or part of its obligations under the Contract by virtue of interruptions in the computer systems used by the Company;
  - 15.1.4. All Services performed by the Company and/or its subcontractors pursuant to this Contract shall meet the highest industry standards and shall be performed in a professional and workmanlike manner by staff with the necessary skills, experience and knowledge;
  - 15.1.5. Neither the Services, nor any Deliverables provided by the Company under this Contract will infringe or misappropriate any patent, copyright, trademark or trade secret rights of any third party;
  - 15.1.6. The Company and each Company employee provided by the Company to the City shall have the qualifications, skills and experience necessary to perform the Services described or referenced in Exhibit B;
  - 15.1.7. All information provided by the Company about each of their employees is accurate; and
  - 15.1.8. Each Company employee is an employee of the Company, and the Company shall make all payments and withholdings required for by law for the Company for such employees.
- 15.2. **ADDITIONAL WARRANTIES.**  
The Company further represents and warrants that:
- 15.2.1. It is a legal entity and if incorporated, duly incorporated, validly existing and in good standing under the laws of the state of its incorporation or licensing and is qualified to do business in North Carolina;
  - 15.2.2. It has all the requisite corporate power and authority to execute, deliver and perform its obligations under this Contract;
  - 15.2.3. The execution, delivery, and performance of this Contract have been duly authorized by the Company;
  - 15.2.4. No approval, authorization or consent of any governmental or regulatory authority is required to be obtained or made by it in order for it to enter into and perform its obligations under this Contract;
  - 15.2.5. In connection with its obligations under this Contract, it shall comply with all applicable federal, state and local laws and regulations and shall obtain all applicable permits and licenses; and
  - 15.2.6. The performance of this Contract by the Company and each Company employee provided by the Company will not violate any contracts or agreements with third parties or any third party rights (including but not limited to non-compete agreements, non-disclosure agreements, patents, trademarks or intellectual property rights).

**16. OTHER OBLIGATIONS OF THE COMPANY.**

- 16.1. **WORK ON CITY'S PREMISES.**

The Company and all their employees will, whenever on the City's premises, obey all instructions and City policies that are provided to them with respect to performing Services on the City's premises.

16.2. **RESPECTFUL AND COURTEOUS BEHAVIOR.**

The Company shall assure that its employees interact with City employees and with the public in a courteous, helpful and impartial manner. All employees of the Company in both field and office shall refrain from belligerent behavior and/or profanity. Correction of any such behavior and language shall be the responsibility of the Company.

16.3. **REPAIR OR REPLACEMENT OF DAMAGE EQUIPMENT OR FACILITIES.**

In the event that the Company causes damage to the City's equipment or facilities, the Company shall, at its own expense, promptly repair or replace such damaged items to restore them to the same level of functionality that they possessed prior to the Company's action.

16.4. **REGENERATION OF LOST OR DAMAGED DATA.**

With respect to any data that the Company or any Company employees have negligently lost or negligently damaged, the Company shall, at its own expense, promptly replace or regenerate such data from the City's machine-readable supporting material, or obtain, at the Company's own expense, a new machine-readable copy of lost or damaged data from the City's data sources.

16.5. **E-VERIFY.**

Company shall comply with the requirements of Article 2 of Chapter 64 of the North Carolina General Statutes, and shall require each of its subcontractors to do so as well.

16.6. **IRAN DIVESTMENT ACT.**

Company certifies that: (i) it is not identified on the Final Divestment List or any other list of prohibited investments created by the NC State Treasurer pursuant to N.C.G.S. 147-86.58; (ii) it will not take any action causing it to appear on any such list during the term of this Contract; and (iii) it will not utilize any subcontractor that is identified on any such list to provide goods or Services hereunder.

**17. REMEDIES.**

17.1. **RIGHT TO COVER.**

If the Company fails to meet any completion date or resolution time set forth in this Contract (including the Exhibits) or the Project Plan, the City may take any of the following actions with or without terminating this Contract, and in addition to and without limiting any other remedies it may have:

- a. Employ such means as it may deem advisable and appropriate to perform itself or obtain the Services from a third party until the matter is resolved and the Company is again able to resume performance under this Contract; and
- b. Deduct any and all expenses incurred by the City in obtaining or performing the Services from any money then due or to become due the Company and, should the City's cost of obtaining or performing the Services exceed the amount due the Company, collect the amount due from the Company.

17.2. **RIGHT TO WITHHOLD PAYMENT.**

If the Company breaches any provision of this Contract, the City shall have a right to withhold all payments due to the Company until such breach has been fully cured.

17.3. **SPECIFIC PERFORMANCE AND INJUNCTIVE RELIEF.**

The Company agrees that monetary damages are not an adequate remedy for the Company's failure to provide the Services or Deliverables as required by this Contract, nor could monetary damages be the equivalent of the performance of such obligation. Accordingly, the Company hereby consents to an order granting specific performance of such obligations of the Company in a court of competent jurisdiction within the State of North Carolina. The Company further consents to the City obtaining injunctive relief (including a temporary restraining order) to assure performance in the event the Company breaches the Contract.

17.4. **SETOFF.**

Each party shall be entitled to setoff and deduct from any amounts owed to the other party pursuant to this Contract all damages and expenses incurred or reasonably anticipated as a result of the other party's breach of this Contract.

17.5. **OTHER REMEDIES.**

Upon breach of this Contract, each party may seek all legal and equitable remedies to which it is entitled. The remedies set forth herein shall be deemed cumulative and not exclusive and may be exercised successively or concurrently, in addition to any other available remedy.

**18. TERM AND TERMINATION OF CONTRACT.**

18.1. **TERM.**

This Contract shall commence on the Effective Date and shall continue in effect for five (5) years with the City having the unilateral right to renew for two (2) consecutive two (2) year terms.

18.2. **TERMINATION BY THE CITY.**

The City may terminate the Contract at any time without cause by giving thirty (30) days prior written notice to the Company. As soon as practicable after receipt of a written notice of termination without cause, Company shall submit a statement to the City showing in detail the Services performed under this Contract through the date of termination. The forgoing payment obligation is contingent upon: (i) the Company having fully complied with Section 18.8; and (ii) the Company having provided the City with written documentation reasonably adequate to verify the number of hours of Services rendered by each Company employee through the termination date and the percentage of completion of each task.

18.3. **TERMINATION FOR DEFAULT BY EITHER PARTY.**

By giving written notice to the other party, either party may terminate the Contract upon the occurrence of one or more of the following events:

- a. The other party violates or fails to perform any covenant, provision, obligation, term or condition contained in the Contract, provided that, unless otherwise stated in the Contract, such failure or violation shall not be cause for termination if both of the following conditions are satisfied: (i) such default is reasonably susceptible to cure; and (ii) the other party cures such default within thirty (30) days of receipt of written notice of default from the non-defaulting party; or
- b. The other party attempts to assign, terminate or cancel the Contract contrary to the terms hereof; or
- c. The other party ceases to do business as a going concern, makes an assignment for the benefit of creditors, admits in writing its inability to pay debts as they become due, files a petition in bankruptcy or has an involuntary bankruptcy

petition filed against it (except in connection with a reorganization under which the business of such party is continued and performance of all its obligations under the Contract shall continue), or if a receiver, trustee or liquidator is appointed for it or any substantial part of other party's assets or properties.

Any notice of default shall identify this Section of the Contract and shall state the party's intent to terminate the Contract if the default is not cured within the specified period.

Notwithstanding anything contained herein to the contrary, upon termination of this Contract by the Company for default, the Company shall continue to perform the Services required by this Contract for the lesser of: (i) six (6) months after the date the City receives the Company's written termination notice; or (ii) the date on which the City completes its transition to a new service provider.

18.4. **ADDITIONAL GROUNDS FOR DEFAULT TERMINATION BY THE CITY.**

By giving written notice to the Company, the City may also terminate the Contract upon the occurrence of one or more of the following events (which shall each constitute separate grounds for termination without a cure period and without the occurrence of any of the other events of default previously listed):

- a. Failure of the Company to complete a particular task by the completion date set forth in this Contract;
- b. The Company makes or allows to be made any material written misrepresentation or provides any materially misleading written information in connection with this Contract, or any covenant, agreement, obligation, term or condition contained in this Contract; or
- c. The Company takes or fails to take any action which constitutes grounds for immediate termination under the terms of the Contract, including but not limited to failure to obtain or maintain the insurance policies and endorsements as required by the Contract, or failure to provide the proof of insurance as required by the Contract.

18.5. **NO SUSPENSION.**

In the event that the City disputes in good faith an allegation of default by the Company, notwithstanding anything to the contrary in the Contract, the Company agrees that it will not terminate the Contract or suspend or limit the Services or any warranties or repossess, disable or render unusable any software supplied by the Company, unless (i) the parties agree in writing, or (ii) an order of a court of competent jurisdiction determines otherwise.

18.6. **CANCELLATION OF ORDERS AND SUBCONTRACTS.**

In the event this Contract is terminated by the City for any reason prior to the end of the term, the Company shall upon termination immediately discontinue all service in connection with this Contract and promptly cancel all existing orders and subcontracts, which are chargeable to this Contract. As soon as practicable after receipt of notice of termination, the Company shall submit a statement to the City showing in detail the Services performed under this Contract to the date of termination.

18.7. **AUTHORITY TO TERMINATE.**

The following persons are authorized to terminate this Contract on behalf of the City:  
(a) the City Manager, any Assistant City Manager, or any designee of the City

Manager; or (b) the Department Director of the City Department responsible for administering this Contract.

**18.8. OBLIGATIONS UPON EXPIRATION OR TERMINATION.**

Upon expiration or termination of this Contract, the Company shall promptly return to the City (i) all computer programs, files, documentation, media, related material and any other material and equipment that is owned by the City; (ii) all Deliverables that have been completed or that are in process as of the date of termination; and (iii) a written statement describing in detail all work performed with respect to Deliverables which are in process as of the date of termination. The expiration or termination of this Contract shall not relieve either party of its obligations regarding “Confidential Information”, as defined in this Contract.

**18.9. NO EFFECT ON TAXES, FEES, CHARGES OR REPORTS.**

Any termination of this Contract shall not relieve the Company of the obligation to pay any fees, taxes or other charges then due to the City, nor relieve the Company of the obligation to file any daily, monthly, quarterly or annual reports covering the period to termination nor relieve the Company from any claim for damages previously accrued or then accruing against the Company.

**18.10. OTHER REMEDIES.**

The remedies set forth in this Section and **Section 19** shall be deemed cumulative and not exclusive, and may be exercised successively or concurrently, in addition to any other remedies available under this Contract or at law or in equity.

**19. TRANSITION SERVICES UPON TERMINATION.**

Upon termination or expiration of this Contract, the Company shall cooperate with the City to assist with the orderly transfer of the Services provided by the Company to the City. Prior to termination or expiration of this Contract, the City may require the Company to perform and, if so required, the Company shall perform certain transition Services necessary to shift the Services of the Company to another provider or to the City itself as described below (the “Transition Services”). Transition Services may include but shall not be limited to the following:

- Working with the City to jointly develop a mutually agreed upon Transition Services Plan to facilitate the termination of the Services;
- Notifying all affected service providers and subcontractors of the Company;
- Performing the Transition Services;
- Answering questions regarding the Services on an as-needed basis; and
- Providing such other reasonable Services needed to effectuate an orderly transition to a new service provider.

**20. CHANGES.**

In the event changes to the Services (collectively “Changes”), become necessary or desirable to the parties, the parties shall follow the procedures set forth in this Section. A Change shall be effective only when documented by a written, dated agreement executed by both parties that expressly references and is attached to this Contract (a “Change Statement”). The Change Statement shall set forth in detail: (i) the Change requested, including all modifications of the duties of the parties; (ii) the reason for the proposed Change; and (iii) a detailed analysis of the impact of the Change on the results of the Services and time for completion of the Services, including the impact on all Milestones and delivery dates and any associated price.

In the event either party desires a Change, the Project Manager for such party shall submit to the other party's Project Manager a proposed Change Statement. If the receiving party does not accept the Change Statement in writing within ten (10) days, the receiving party shall be deemed to have rejected the Change Statement. If the parties cannot reach agreement on a proposed Change, the Company shall nevertheless continue to render performance under this Contract in accordance with its (unchanged) terms and conditions.

Changes that involve or increase in the amounts payable by the City may require execution by the City Manager or a designee depending on the amount. Some increases may also require approval by Charlotte City Council.

**21. CITY OWNERSHIP OF WORK PRODUCT.**

21.1. The parties agree that the City shall have exclusive ownership of all reports, documents, designs, ideas, materials, reports, concepts, plans, creative works, and other work product developed for or provided to the City in connection with this Contract, and all patent rights, copyrights, trade secret rights and other intellectual property rights relating thereto (collectively the "Intellectual Property"). The Company hereby assigns and transfers all rights in the Intellectual Property to the City. The Company further agrees to execute and deliver such assignments and other documents as the City may later require to perfect, maintain and enforce the City's rights as sole owner of the Intellectual Property, including all rights under patent and copyright law. The Company hereby appoints the City as attorney in fact to execute all such assignments and instruments and agree that its appointment of the City as an attorney in fact is coupled with an interest and is irrevocable.

21.2. The City grants the Company a royalty-free, non-exclusive license to use and copy the Intellectual Property to the extent necessary to perform this Contract. The Company shall not be entitled to use the Intellectual Property for other purposes without the City's prior written consent, and shall treat the Intellectual Property as "Confidential Information" pursuant to Section 25 of the Contract.

21.3. The Company will treat as Confidential Information under the Confidentiality and Non-Disclosure Contract all data in connection with the Contract. City data processed by the Company shall remain the exclusive property of the City. The Company will not reproduce, copy, duplicate, disclose, or in any way treat the data supplied by the City in any manner except that contemplated by the Contract.

**22. RELATIONSHIP OF THE PARTIES.**

The relationship of the parties established by this Contract is solely that of independent contractors, and nothing contained in this Contract shall be construed to (i) give any party the power to direct or control the day-to-day administrative activities of the other; or (ii) constitute such parties as partners, joint venturers, co-owners or otherwise as participants in a joint or common undertaking; or (iii) make either party an agent of the other, or any Company employee an agent or employee of the City, for any purpose whatsoever. Neither party nor its agents or employees is the representative of the other for any purpose, and neither has power or authority to act as agent or employee to represent, to act for, bind, or otherwise create or assume any obligation on behalf of the other.

**23. INDEMNIFICATION.**

To the fullest extent permitted by law, the Company shall indemnify, defend and hold harmless each of the "Indemnitees" (as defined below) from and against any and all "Charges" (as defined below) paid or incurred as a result of any claims, demands, lawsuits, actions, or proceedings: (i) alleging violation, misappropriation or infringement of any copyright, trademark, patent, trade secret or other proprietary rights with respect to the

Services or any Products or deliverables provided to the City pursuant to this Contract (“Infringement Claims”); (ii) seeking payment for labor or materials purchased or supplied by the Company or its subcontractors in connection with this Contract; (iii) arising from the Company’s failure to perform its obligations under this Contract, or from any act of negligence or willful misconduct by the Company or any of its agents, employees or subcontractors relating to this Contract, including but not limited to any liability caused by an accident or other occurrence resulting in bodily injury, death, sickness or disease to any person(s) or damage or destruction to any property, real or personal, tangible or intangible; or (iv) arising from any claim that the Company or an employee or subcontractor of the Company is an employee of the City, including but not limited to claims relating to worker’s compensation, failure to withhold taxes and the like. For purposes of this Section: (a) the term “Indemnitees” means the City and each of the City’s officers, officials, employees, agents and independent contractors (excluding the Company); and (b) the term “Charges” means any and all losses, damages, costs, expenses (including reasonable attorneys’ fees), obligations, duties, fines, penalties, royalties, interest charges and other liabilities (including settlement amounts).

If an Infringement Claim occurs, the Company shall either: (i) procure for the City the right to continue using the affected product or service; or (ii) repair or replace the infringing product or service so that it becomes non-infringing, provided that the performance of the overall product(s) and service(s) provided to the City shall not be adversely affected by such replacement or modification. If the Company is unable to comply with the preceding sentence within thirty (30) days after the City is directed to cease use of a product or service, the Company shall promptly refund to the City all amounts paid under this Contract.

This Section 23 shall remain in force despite termination of this Contract (whether by expiration of the term or otherwise).

**24. SUBCONTRACTING.**

Should the Company choose to subcontract, the Company shall be the prime contractor and shall remain fully responsible for performance of all obligations that it is required to perform under the Contract. Any subcontract entered into by Company shall name the City as a third party beneficiary.

**25. CONFIDENTIAL INFORMATION.**

25.1. CONFIDENTIAL INFORMATION.

Confidential Information includes any information, not generally known in the relevant trade or industry, obtained from the City or its vendors or licensors or which falls within any of the following general categories:

25.1.1. *Trade secrets.* For purposes of this Contract, trade secrets consist of *information* of the City or any of its Companies, contractors or licensors: (a) that derives value from being secret; and (b) that the owner has taken reasonable steps to keep confidential. Examples of trade secrets include information relating to proprietary software, new technology, new Products or Services, flow charts or diagrams that show how things work, manuals that tell how things work and business processes and procedures.

25.1.2. *Information of the City or its Companies, contractors or licensors marked “Confidential” or “Proprietary.”*

25.1.3. *Information relating to criminal investigations conducted by the City, and records of criminal intelligence information compiled by the City.*

25.1.4. *Information contained in the City’s personnel files, as defined by N.C. Gen.*

## Exhibit A Sample City Contract

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*Stat. 160A-168.* This consists of all information gathered and/or maintained by the City about employees, except for that information which is a matter of public record under North Carolina law.

- 25.1.5. *Citizen or employee social security numbers collected by the City.*
- 25.1.6. *Computer security information of the City, including all security features of electronic data processing, or information technology systems, telecommunications networks and electronic security systems. This encompasses but is not limited to passwords and security standards, procedures, processes, configurations, software and codes.*
- 25.1.7. *Local tax records of the City that contains information about a taxpayer's income or receipts.*
- 25.1.8. *Any attorney / City privileged information disclosed by either party.*
- 25.1.9. *Any data collected from a person applying for financial or other types of assistance, including but not limited to their income, bank accounts, savings accounts, etc.*
- 25.1.10. *The name or address of individual homeowners who, based on their income, have received a rehabilitation grant to repair their home.*
- 25.1.11. *Building plans of city-owned buildings or structures, as well as any detailed security plans.*
- 25.1.12. *Billing information of customers compiled and maintained in connection with the City providing utility Services.*
- 25.1.13. *Other information that is exempt from disclosure under the North Carolina public records laws.*

Categories stated in Sections 25.1.3 through 25.1.13 above constitute "Highly Restricted Information," as well as Confidential Information. The Company acknowledges that certain Highly Restricted Information is subject to legal restrictions beyond those imposed by this Contract, and agrees that: (a) all provisions in this Contract applicable to Confidential Information shall apply to Highly Restricted Information; and (b) the Company will also comply with any more restrictive instructions or written policies that may be provided by the City from time to time to protect the confidentiality of Highly Restricted Information.

The parties acknowledge that in addition to information disclosed or revealed after the date of this Contract, the Confidential Information shall include information disclosed or revealed within one year prior to the date of this Contract.

### 25.2. RESTRICTIONS.

The Company shall keep the Confidential Information in the strictest confidence, in the manner set forth below:

- 25.2.1. It shall not copy, modify, enhance, compile or assemble (or reverse compile or disassemble), or reverse engineer Confidential Information.
- 25.2.2. It shall not, directly or indirectly, disclose, divulge, reveal, report or transfer Confidential Information of the other to any third party or to any individual employed by the Company, other than an employee, agent, subcontractor or vendor of the City or Company who: (i) has a need to know such Confidential Information, and (ii) has executed a confidentiality agreement

**Exhibit A**  
**Sample City Contract**

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incorporating substantially the form of this Section of the Contract and containing all protections set forth herein.

- 25.2.3. It shall not use any Confidential Information of the City for its own benefit or for the benefit of a third party, except to the extent such use is authorized by this Contract or other written agreements between the parties hereto, or is for the purpose for which such Confidential Information is being disclosed.
- 25.2.4. It shall not remove any proprietary legends or notices, including copyright notices, appearing on or in the Confidential Information of the other.
- 25.2.5. The Company shall use its best efforts to enforce the proprietary rights of the City and the City's vendors, licensors and Companys (including but not limited to seeking injunctive relief where reasonably necessary) against any person who has possession of or discloses Confidential Information in a manner not permitted by this Contract.
- 25.2.6. In the event that any demand is made in litigation, arbitration or any other proceeding for disclosure of Confidential Information, the Company shall assert this Contract as a ground for refusing the demand and, if necessary, shall seek a protective order or other appropriate relief to prevent or restrict and protect any disclosure of Confidential Information.
- 25.2.7. All materials which constitute, reveal or derive from Confidential Information shall be kept confidential to the extent disclosure of such materials would reveal Confidential Information, and unless otherwise agreed, all such materials shall be returned to the City or destroyed upon satisfaction of the purpose of the disclosure of such information.

25.3. **EXCEPTIONS.**

The parties agree that the Company shall have no obligation with respect to any Confidential Information which the Company can establish:

- 25.3.1. Was already known to the Company prior to being disclosed by the disclosing party;
- 25.3.2. Was or becomes publicly known through no wrongful act of the Company;
- 25.3.3. Was rightfully obtained by the Company from a third party without similar restriction and without breach hereof;
- 25.3.4. Was used or disclosed by the Company with the prior written authorization of the City;
- 25.3.5. Was disclosed pursuant to the requirement or request of a governmental agency, which disclosure cannot be made in confidence, provided that, in such instance, the Company shall first give to the City notice of such requirement or request;
- 25.3.6. Was disclosed pursuant to the order of a court of competent jurisdiction or a lawfully issued subpoena, provided that the Company shall take use its best efforts to obtain an agreement or protective order providing that, to the greatest possible extent possible, this Contract will be applicable to all disclosures under the court order or subpoena.

25.4. **UNINTENTIONAL DISCLOSURE.**

Notwithstanding anything contained herein in to the contrary, in the event that the Company is unintentionally exposed to any Confidential Information of the City, the Company agrees that it shall not, directly or indirectly, disclose, divulge, reveal, report or transfer such Confidential Information to any person or entity or use such Confidential Information for any purpose whatsoever.

25.5. **REMEDIES.**

The Company acknowledges that the unauthorized disclosure of the Confidential Information of the City will diminish the value of the proprietary interests therein. Accordingly, it is agreed that if the Company breaches its obligations hereunder, the City shall be entitled to equitable relief to protect its interests, including but not limited to injunctive relief, as well as monetary damages.

**26. INSURANCE.**

26.1. **TYPES OF INSURANCE**

Company shall obtain and maintain during the life of this Contract, with an insurance Company rated not less than "A" by A.M. Best, authorized to do business in the State of North Carolina, acceptable to the Charlotte-Mecklenburg, Risk Management Division the following insurance:

26.1.1. Automobile Liability - Bodily injury and property damage liability covering all owned, non-owned and hired automobiles for limits of not less than \$1,000,000 bodily injury each person, each accident and \$1,000,000 property damage, or \$1,000,000 combined single limit - bodily injury and property damage.

26.1.2. Commercial General Liability - Bodily injury and property damage liability as shall protect the Company and any subcontractor performing Services under this Contract, from claims of bodily injury or property damage which arise from performance of this Contract, whether such operations are performed by the Company, any subcontractor, or anyone directly or indirectly employed by either. The amounts of such insurance shall not be less than \$1,000,000 bodily injury each occurrence/aggregate and \$1,000,000 property damage each occurrence/aggregate, or \$1,000,000 bodily injury and property damage combined single limits each occurrence/aggregate. This insurance shall include coverage for Products, operations, personal and advertising injury, and contractual liability, assumed under the indemnity provision of this Contract.

26.1.3. Workers' Compensation and Employers Liability - meeting the statutory requirements of the State of North Carolina, \$500,000 per accident limit, \$500,000 disease per policy limit, \$500,000 disease each employee limit.

The Company shall not commence any Services in connection with this Contract until it has obtained all of the foregoing types of insurance and such insurance has been approved by the City. The Company shall not allow any subcontractor to commence Services on its subcontract until all similar insurance required of the subcontractor has been obtained and approved.

26.2. **OTHER INSURANCE REQUIREMENTS.**

26.2.1. The City shall be exempt from, and in no way liable for any sums of money, which may represent a deductible in any insurance policy. The payment of such deductible shall be the sole responsibility of the Company and/or subcontractor providing such insurance.

- 26.2.2. The City of Charlotte shall be named as an additional insured for operations or Services rendered under the general liability coverage. The Company's insurance shall be primary of any self-funding and/or insurance otherwise carried by the City for all loss or damages arising from the Company's operations under this agreement.
- 26.2.3. Certificates of such insurance will be furnished to the City and shall contain the provision that the City be given thirty (30) days' written notice of any intent to amend coverage reductions or material changes or terminate by either the insured or the insuring Company.
- 26.2.4. Should any or all of the required insurance coverage be self-funded/self-insured, a copy of the Certificate of Self-Insurance or other documentation from the North Carolina Department of Insurance shall be furnished to the City.
- 26.2.5. If any part of the Services under this Contract is sublet, the subcontractor shall be required to meet all insurance requirements as listed above. However, this will in no way relieve the Company from meeting all insurance requirements or otherwise being responsible for the subcontractor.

**27. COMMERCIAL NON-DISCRIMINATION.**

As a condition of entering into this Contract, the Company represents and warrants that it will

As a condition of entering into this agreement, the Company represents and warrants that it will fully comply with the City's Commercial Non-Discrimination Policy, as described in Section 2, Article V of the Charlotte City Code, and consents to be bound by the award of any arbitration conducted thereunder. As part of such compliance, the Company shall not discriminate on the basis of race, gender, religion, national origin, ethnicity, age or disability in the solicitation, selection, hiring, or treatment of subcontractors, vendors or suppliers in connection with a City contract or contract solicitation process, nor shall the Company retaliate against any person or entity for reporting instances of such discrimination. The Company shall provide equal opportunity for subcontractors, vendors and suppliers to participate in all of its subcontracting and supply opportunities on City contracts, provided that nothing contained in this clause shall prohibit or limit otherwise lawful efforts to remedy the effects of marketplace discrimination that has occurred or is occurring in the marketplace. The Company understands and agrees that a violation of this clause shall be considered a material breach of this Agreement and may result in termination of this Agreement, disqualification of the Company from participating in City contracts or other sanctions.

As a condition of entering into this Contract, the Company agrees to: (a) promptly provide to the City in a format specified by the City all information and documentation that may be requested by the City from time to time regarding the solicitation, selection, treatment and payment of subcontractors in connection with this Contract; and (b) if requested, provide to the City within sixty days after the request a truthful and complete list of the names of all subcontractors, vendors, and suppliers that the Company has used on City contracts in the past five years, including the total dollar amount paid by the Company on each subcontract or supply contract. The Company further agrees to fully cooperate in any investigation conducted by the City pursuant to the City's Non-Discrimination Policy, to provide any documents relevant to such investigation that are requested by the City, and to be bound by the award of any arbitration conducted under such Policy.

The Company agrees to provide to the City from time to time on the City's request, payment affidavits detailing the amounts paid by the Company to subcontractors and suppliers in connection with this Contract within a certain period of time. Such affidavits shall be in the format specified by the City from time to time

The Company understands and agrees that violation of this Commercial Non-Discrimination provision shall be considered a material breach of this Contract and may result in contract termination, disqualification of the Company from participating in City contracts and other sanctions.

**28. NOTICES AND PRINCIPAL CONTACTS.**

Any notice, consent or other communication required or contemplated by this Contract shall be in writing, and shall be delivered in person, by U.S. mail, by overnight courier, by electronic mail or by telefax to the intended recipient at the address set forth below:

For the Company:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

PHONE: \_\_\_\_\_

FAX: \_\_\_\_\_

E-MAIL: \_\_\_\_\_

For the City:

Karen Ewing  
City of Charlotte  
Procurement Management Division  
600 East Fourth Street, CMGC 9th Floor  
Charlotte, NC 28202-2850  
PHONE: 704-336-2992  
FAX: 704-632-8254  
[kelmore@ci.charlotte.nc.us](mailto:kelmore@ci.charlotte.nc.us)

With Copy To (Company):

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

PHONE: \_\_\_\_\_

EMAIL: \_\_\_\_\_

With Copy To (City):

Cindy White  
City of Charlotte  
City Attorney's Office  
600 East Fourth Street  
CMGC 15<sup>th</sup> Floor  
Charlotte, NC 28202  
PHONE: (704)336-3012  
[cwhite@ci.charlotte.nc.us](mailto:cwhite@ci.charlotte.nc.us)

Notice shall be effective upon the date of receipt by the intended recipient; provided that any notice, which is sent by telefax or electronic mail, shall also be simultaneously sent by mail deposited with the U.S. Postal Service or by overnight courier. Each party may change its address for notification purposes by giving the other party written notice of the new address and the date upon which it shall become effective.

**29. MISCELLANEOUS.**

29.1. ENTIRE AGREEMENT.

This Contract is the entire agreement between the parties with respect to its subject matter, and there are no other representations, understandings, or agreements between the parties with respect to such subject matter. This Contract supersedes all prior agreements, negotiations, representations and proposals, written or oral.

29.2. AMENDMENT.

No amendment or change to this Contract shall be valid unless in writing and signed by both parties to this Contract.

29.3. GOVERNING LAW AND JURISDICTION.

## Exhibit A Sample City Contract

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The parties acknowledge that this Contract is made and entered into in Charlotte, North Carolina, and will be performed in Charlotte, North Carolina. The parties further acknowledge and agree that North Carolina law shall govern all the rights, obligations, duties and liabilities of the parties under this Contract, and that North Carolina law shall govern interpretation and enforcement of this Contract and any other matters relating to this Contract (all without regard to North Carolina conflicts of law principles). The parties further agree that any and all legal actions or proceedings relating to this Contract shall be brought in a state or federal court sitting in Mecklenburg County, North Carolina. By the execution of this Contract, the parties submit to the jurisdiction of said courts and hereby irrevocably waive any and all objections, which they may have with respect to venue in any court sitting in Mecklenburg County, North Carolina.

29.4. **BINDING NATURE AND ASSIGNMENT.**

This Contract shall bind the parties and their successors and permitted assigns. Neither party may assign any of the rights and obligations thereunder without the prior written consent of the other. Any assignment attempted without the written consent of the other party shall be void.

29.5. **CITY NOT LIABLE FOR DELAYS.**

It is agreed that the City shall not be liable to the Company, its agents or representatives or any subcontractor for or on account of any stoppages or delay in the performance of any obligations of the City or any other party hereunder caused by injunction or other legal or equitable proceedings or on account of any other delay for any cause beyond the City's reasonable control. The City shall not be liable under any circumstances for lost profits or any other consequential, special or indirect damages.

29.6. **FORCE MAJEURE.**

29.6.1. The Company shall be not liable for any failure or delay in the performance of its obligations pursuant to this Contract (and such failure or delay shall not be deemed a default of this Contract or grounds for termination hereunder if all of the following conditions are satisfied: (i) if such failure or delay: (a) could not have been prevented by reasonable precaution, and (b) cannot reasonably be circumvented by the non-performing party through the use of alternate sources, work-around plans, or other means; and (ii) if and to the extent such failure or delay is caused, directly or indirectly, by fire, flood, earthquake, hurricane, elements of nature or acts of God, acts of war, terrorism, riots, civil disorders, rebellions or revolutions, or court order.

29.6.2. Upon the occurrence of an event which satisfies all of the conditions set forth above (a "Force Majeure Event") the Company shall be excused from any further performance of those of its obligations pursuant to this Contract affected by the Force Majeure Event for as long as (a) such Force Majeure Event continues and (b) the Company continues to use commercially reasonable efforts to recommence performance whenever and to whatever extent possible without delay.

29.6.3. Upon the occurrence of a Force Majeure Event, the Company shall immediately notify the City by telephone (to be confirmed by written notice within two (2) days of the inception of the failure or delay) of the occurrence of a Force Majeure Event and shall describe in reasonable detail the nature of the Force Majeure Event. If any Force Majeure Event prevents the Company

from performing its obligations for more than five (5) days, the City may terminate this Contract.

29.6.4. Strikes, slow-downs, walkouts, lockouts, and individual disputes are not excused under this provision.

29.7. **SEVERABILITY.**

The invalidity of one or more of the phrases, sentences, clauses or sections contained in this Contract shall not affect the validity of the remaining portion of the Contract so long as the material purposes of the Contract can be determined and effectuated. If any provision of this Contract is held to be unenforceable, then both parties shall be relieved of all obligations arising under such provision, but only to the extent that such provision is unenforceable, and this Contract shall be deemed amended by modifying such provision to the extent necessary to make it enforceable while preserving its intent.

29.8. **NO PUBLICITY.**

No advertising, sales promotion or other materials of the Company or its agents or representations may identify or reference this Contract or the City in any manner absent the written consent of the City.

29.9. **APPROVALS.**

All approvals or consents required under this Contract must be in writing.

29.10. **WAIVER.**

No delay or omission by either party to exercise any right or power it has under this Contract shall impair or be construed as a waiver of such right or power. A waiver by either party of any covenant or breach of this Contract shall not be constitute or operate as a waiver of any succeeding breach of that covenant or of any other covenant. No waiver of any provision of this Contract shall be effective unless in writing and signed by the party waiving the rights.

29.11. **SURVIVAL OF PROVISIONS.**

The following sections of this Contract shall survive the termination hereof:

Section 4.3 "Employment Taxes and Employee Benefits"  
Section 15 "Representations and Warranties of Company"  
Section 18 "Term and Termination of Contract"  
Section 21 "City Ownership of Work Product"  
Section 23 "Indemnification"  
Section 25 "Confidential Information"  
Section 26 "Insurance"  
Section 28 "Notices and Principal Contacts"  
Section 29 "Miscellaneous"

29.12. **CHANGE IN CONTROL.**

In the event of a change in "Control" of the Company (as defined below), the City shall have the option of terminating this Contract by written notice to the Company. The Company shall notify the City within ten (10) days of the occurrence of a change in control. As used in this Contract, the term "Control" shall mean the possession, direct or indirect, of either (i) the ownership of or ability to direct the voting of, as the case may be fifty-one percent (51%) or more of the equity interests, value or voting power in the Company or (ii) the power to direct or cause the direction of the management and policies of the Company whether through the ownership of voting securities, by contract or otherwise.

- 29.13. **DRAFTER’S PROTECTION.**  
Each of the Parties has agreed to the use of the particular language of the provisions of this Contract and any questions of doubtful interpretation shall not be resolved by any rule or interpretation against the drafters, but rather in accordance with the fair meaning thereof, having due regard to the benefits and rights intended to be conferred upon the Parties hereto and the limitations and restrictions upon such rights and benefits intended to be provided.
- 29.14. **FAMILIARITY AND COMPLIANCE WITH LAWS AND ORDINANCES.**  
The Company agrees to make itself aware of and comply with all local, state and federal ordinances, statutes, laws, rules and regulations applicable to the Services. The Company further agrees that it will at all times during the term of this Contract be in compliance with all applicable federal, state and/or local laws regarding employment practices. Such laws will include, but shall not be limited to, workers' compensation, the Fair Labor Standards Act (FLSA), the Americans with Disabilities Act (ADA), the Family and Medical Leave Act (FMLA) and all OSHA regulations applicable to the Services.
- 29.15. **CONFLICT OF INTEREST.**  
The Company covenants that its officers, employees and shareholders have no interest and shall not acquire any interest, direct or indirect that would conflict in any manner or degree with the performance of Services required to be performed under the Contract.
- 29.16. **NO BRIBERY.**  
The Company certifies that neither it, any of its affiliates or subcontractors, nor any employees of any of the forgoing has bribed or attempted to bribe an officer or employee of the City in connection with the Contract.
- 29.17. **HARASSMENT.**  
The Company agrees to make itself aware of and comply with the City's Harassment Policy. The City will not tolerate or condone acts of harassment based upon race, sex, religion, national origin, color, age, or disability. Violators of this policy will be subject to termination.
- 29.18. **TRAVEL UPGRADES.**  
The City has no obligation to reimburse the Company for any travel or other expenses incurred in connection with this Contract unless this Contract specifically requires reimbursement. If this Contract requires reimbursement by the City: (a) the City will only pay coach/economy rate airline fares, and (b) the Company’s invoices shall include sufficient detail of travel expenses to demonstrate that fares were at coach/economy rates. Notwithstanding the forgoing, nothing in this provision shall preclude complimentary upgrades to first class or business class seating, mileage, points, or credits based upgrades, or upgrades paid for by the contractor so long as the City is not charged for or asked to reimburse the upgrade charge or the value of the miles, points, or credits used.
- 29.19. **TAXES.**  
Except as specifically stated elsewhere in this Contract, the Company shall pay all applicable federal, state and local taxes which may be chargeable against the performance of the Services. The Company consents to and authorizes the City to collect any and all delinquent taxes and related interest, fines, or penalties of the Company by reducing any payment, whether monthly, quarterly, semi-annually, annually, or otherwise, made by the City to the Company pursuant to this Contract

**Exhibit A**  
**Sample City Contract**

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for an amount equal to any and all taxes and related interest, fines, or penalties owed by the Company to the City. The Company hereby waives any requirements for notice under North Carolina law for each and every instance that the City collects delinquent taxes pursuant to this paragraph. This paragraph shall not be construed to prevent the Company from filing an appeal of the assessment of the delinquent tax if such appeal is within the time prescribed by law.

29.20. UNIFORM ADMINISTRATIVE REQUIREMENTS

By entering into this Contract, the Company agrees to comply with all applicable provisions of *Title 2, Subtitle A, Chapter II, Part 200* – Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards contained in *Title 2 C.F. R. § 200 et seq.*

29.21. COUNTERPARTS.

This Contract may be executed in any number of counterparts, all of which taken together shall constitute one single agreement between the parties.

*[Signature Page Follows]*

**Exhibit A**  
**Sample City Contract**

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**IN WITNESS WHEREOF**, and in acknowledgment that the parties hereto have read and understood each and every provision hereof, the parties have caused this Contract to be executed on the date first written above.

**COMPANY:**

**BY:** \_\_\_\_\_

**PRINT NAME:** \_\_\_\_\_

**TITLE:** \_\_\_\_\_

**DATE:** \_\_\_\_\_

**CITY OF CHARLOTTE:  
CITY MANAGER'S OFFICE**

**CITY OF CHARLOTTE:  
RISK MANAGEMENT DIVISION**

**BY:** \_\_\_\_\_

**BY:** \_\_\_\_\_

**PRINT NAME:** \_\_\_\_\_

**PRINT NAME:** \_\_\_\_\_

**TITLE:** \_\_\_\_\_

**TITLE:** \_\_\_\_\_

**DATE:** \_\_\_\_\_

**DATE:** \_\_\_\_\_

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2022-023**

**RESOLUTION APPROVING THE AMENDED THE BYLAWS OF THE GOLF COURSES ADVISORY COMMITTEE**

WHEREAS, the City Council has established the Golf Courses Advisory Committee (“GCAC”) to serve as a liaison between the general golfing community, golf organizations, and the City to promote the game of golf in the Modesto area; and

WHEREAS, on June 2, 2015, by Resolution No. 2015-177, Council amended the GCAC bylaws; and

WHEREAS, the GCAC Bylaws are in need of minor administrative and procedural updates; and

WHEREAS, in an effort to seek other points of views and perspectives, the Committee desires replacing one at-large member with one youth member, between the age of 16 to 25 years, to be appointed at large; and

WHEREAS, the amended GCAC Bylaws are set forth in the **attached “Exhibit A”**; and

WHEREAS, on September 15, 2021, the Committee approved the proposed amended GCAC Bylaws and recommended they be forwarded to the City Council for final approval.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto, that it hereby approves the amended Bylaws for the Golf Courses 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 January, 2022, by Councilmember Wright, who moved its adoption, which motion being duly seconded by Councilmember Ricci, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Escutia-Braaton, Madrigal, Ricci,  
Wright, Zoslocki, Mayor Zwahlen

NOES: Councilmembers: None

ABSENT: Councilmembers: Kenoyer

ATTEST:   
DANA SANCHEZ, Interim City Clerk

(SEAL)

APPROVED AS TO FORM:

BY:   
JOSE M. SANCHEZ, City Attorney

**CITY OF MODESTO GOLF COURSES COMMITTEE**  
**CONSTITUTION AND BYLAWS**

**ARTICLE I**

**DEFINITIONS**

- Section 1 There is created a Committee to be known and designated as the City of Modesto Golf Courses Committee.
- Section 2 As used in these Bylaws, unless a different meaning clearly appears from the context:
- A. "Member" shall mean a member of the Modesto Golf Courses Committee.
  - B. "Modesto Golf Courses Committee" and "Committee" shall mean the City of Modesto Golf Courses Committee.
  - C. "Modesto golf courses" shall mean ~~Modesto Municipal Golf Course,~~ Dryden Park Golf Course and Creekside Golf Course.
  - D. "Regular meeting" shall mean the bi-monthly Committee meetings.
- Section 3 The fiscal year shall coincide with the City's fiscal year, July 1 to June 30.

**ARTICLE II**

**OBJECTIVES**

- Section 1 The Committee shall be responsible for promotion of the game of golf in the Modesto area.
- Section 2 The Committee shall operate as an advisory body for and among organized golf clubs and the general golfing public of the City of Modesto golf courses.
- Section 3 The Committee shall act as liaison between the general golfing public, golf clubs, and the City of Modesto ~~Community and Economic Development~~Parks, Recreation and Neighborhoods Department, and
- A. Shall receive and consider all proposals for innovations or material changes in established procedures or the modification of the golf courses.
  - B. Endorse participation in golf through the Player Development Programs and Tournament activities with a special emphasis on Junior, Senior and Disabled golf.
- Section 4 The Committee shall encourage, promote and maintain a high standard of sportsmanship among golfers.
- Section 5 The Committee shall consider the annual budget for the Golf Enterprise Fund during the process of its preparation and make recommendations to the Director of ~~Community and Economic Development~~Parks, Recreation and Neighborhoods concerning the annual budget of the Golf Enterprise Fund, including the fees and rates to be charged for the use of golf course facilities.
- Section 6 The Committee shall perform such other duties relating to the Modesto Golf Courses as may be assigned by the Director of ~~Community and Economic Development~~Parks, Recreation and Neighborhoods.
- Section 7 Nothing in this article shall be deemed to invest the Committee with any supervisory powers over the actions and duties of City employees, or of any Lessee of the City, engaged in work relating to the construction, improvement, repair, maintenance or operations of the Modesto golf courses.

**ARTICLE III**

**MEMBERSHIP**

- Section 1 The City of Modesto Golf Courses Committee shall consist of eleven (11) Members.
- Section 2 The Members of the Committee shall reside within the city limits of the City of Modesto at the time of appointment and must maintain residence within the City at all times during their service on the Committee.
- Section 3 None of the members shall hold any paid office or employment or shall be currently a contractor with the City of Modesto.
- Section 4 Five (5) members of the Committee shall represent organized golf clubs at the municipal golf courses, one from each of the following clubs: Muni Niners; SIRS; Modesto Golf Club; Dryden Park Women's Club; and Creekside Golf Club. ~~Five Six (56)~~ members shall be appointed at large. One (1) youth member, between 16 and 25 years of age, shall be appointed at large.
- Section 5 The membership of each organized golf club shall recommend one member to represent their respective clubs, with the remaining six (6) at-large members to be approved by a majority vote of the City Council.
- Section 6 The Director of ~~Community and Economic Development~~ Parks, Recreation and Neighborhoods, or his/her designee, will serve as staff to the Committee and represent the City of Modesto, within the limits dictated by fiscal constraints.

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**ARTICLE IV**

**TERMS OF OFFICE**

- Section 1 The term of office shall be effective as of the first of January.
- Section 2 The terms of office shall be as follows:
- A. Four (4) years for each Member of the Committee. Members may be re-appointed after their initial term, but in no event shall any person who has served two (2) consecutive terms on the Committee be eligible for re-appointment to the Committee. Committee members are eligible for re-appointment to the Committee after a two- (2) year absence from the Committee has transpired.
- B. One (1) year for each youth member appointed at large. Youth members may be re-appointed after their initial term, but in no event shall any youth member who has served two (2) consecutive terms on the Committee be eligible for reappointment to the Committee.
- Section 3 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 III Membership of these bylaws. No member shall serve more than a maximum of eight (8) consecutive years.
- Section 4 The terms of office for the inaugural Committee will be two (2) years for five (5) members of the Committee, and four (4) years for the remaining six (6) members. Each member's term of office shall terminate on December 31 of their respective year.
- Section 5 The Members of the Committee shall receive no compensation for the performance of their official duties.
- Section 6 Appointments to fill vacancies on the Committee 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 7 Members of the Committee may be removed by a majority vote of the City Council after a recommendation by the Director of Community and Economic Development Parks, Recreation and Neighborhoods and a majority vote of the Committee. Examples of reasons for removal of a Committee Member from the Committee are:
- A. Incompetence, malfeasance, misfeasance, neglect of duty, or conviction of a crime involving moral turpitude.
- B. Refusal to resign from the Committee when no longer a resident of the City of Modesto.
- C. Automatic removal from the Committee will be required when a member is absent from three (3) meetings within a twelve- (12) month period without official permission expressed in the official minutes.

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**ARTICLE V**

**ATTENDANCE AT MEETINGS**

- Section 1 It shall be the responsibility of each Member to know the dates and times of all regular meetings of the Committee. If a Member knows he or she will not be able to attend a regularly scheduled meeting, it shall be his or her responsibility to notify the Committee Chair or Staff Liaison at least forty-eight hours (48 hours) before the meeting, in order for the absence to be recorded as an excused absence.
- Section 2 The Recording Secretary will document when any Committee Member is late arriving for a meeting or when a Committee Member leaves a meeting before adjournment. The minutes of each meeting will list those Members in attendance, those who are excused and those who are unexcused.

**ARTICLE VI**

**OFFICERS AND THEIR DUTIES**

- Section 1 Officers shall consist of Chair and Vice-chair, elected by a majority vote of the Members of the Committee. Officers shall serve a one- (1) year term commencing on January 1. The election shall be held at the January meeting, or the first meeting of the year.
- Section 2 All officers shall exercise all privileges of membership, including the making of motions, seconding and debate.
- Section 3 The Chair may serve consecutive terms. The Vice-~~C~~hair may serve consecutive terms.
- Section 4 The Chair shall preside at all meetings and appoint all sub-committees of the Committee and shall ensure that the bylaws, rules and regulations as adopted by the Committee are properly enforced. The Chair shall be an ex-officio member of all sub-committees.
- Section 5 The Vice-~~C~~hair shall assist the Chair in his/her duties and in the absence of the Chair shall perform all duties usually performed by the Chair.
- Section 6 The ~~Community and Economic Development~~Parks, Recreation and Neighborhoods Department shall provide a staff member to serve as ~~Recording~~Recording Secretary. He/she shall keep a record of the minutes of all meetings, reports of sub-committees and such other duties as are usually performed by a secretary. He/she shall supply the Members of the Committee and any sub-committees and the Director ~~Community and Economic Development of Parks, Recreation and Neighborhoods~~ and his/her designee(s) with copies of all records taken within three (3) weeks after a meeting takes place. He/she shall also assist in publicity releases concerning Committee activities.

## ARTICLE VII

### MEETINGS

- Section 1 Regular meetings of the Committee shall be held at such times and places as from time to time may be designated by a majority vote of the Committee.
- Section 2 In the event that a regular meeting falls on a holiday, the meeting shall be scheduled by a vote of the Committee. Special meetings shall be called by the Chair as necessary.
- Section 3 Notices of all meetings, including an agenda, shall be given to all members of the Committee, to the City Clerk, to the City Manager, to the Director of ~~Community and Economic Development~~ Parks, Recreation and Neighborhoods and to all others as provided by law. All such notices shall be furnished to the Committee in writing at least seventy-two hours (72 hours) prior to the time of such meeting.
- Section 4 All meeting agendas will be posted at Tenth Street Place and will be available at the following public facilities: Tenth Street Place, the Main Branch of the Stanislaus County Free Library and at City of Modesto golf courses.
- Section 5 All meetings shall comply with the requirements of the Ralph M. Brown Act.
- Section 6 A quorum is necessary for the Committee to transact any business. A quorum shall be defined as a simple majority of active Committee members.
- Section 7 All meetings of the Committee, or its standing or special sub-committees, shall be open to the public and shall be held at a public facility which is accessible in accordance with the regulations of the Americans with Disabilities Act.

## ARTICLE VIII

### ORDER OF PROCEEDINGS

- Section 1 Sturgis' Standard Code of Parliamentary Procedure shall be the guide for parliamentary procedures in the conduct of Committee meetings.
- Section 2 The order of proceedings of all meetings shall be as follows, subject to majority vote of the Members present:
- A. Call to Order
  - B. Approval of Minutes
  - C. Written Communications
  - D. Old Business
  - E. New Business
  - F. Oral Communications
  - G. Matters Too Late for the Agenda
  - H. Adjournment
- Section 3 Members of the public shall not speak unless recognized by the Chair and shall state their names and addresses before making any statement, which shall become a part of the public record. The Chair may remove any person who refuses to follow these rules or the decision of the Chair.

**ARTICLE IX**

**AMENDMENTS**

- Section 1 The Constitution and Bylaws may be recommended for amendment at a regularly scheduled meeting of the Committee. A written notice containing the proposed changes shall be provided to each member at least sixty (60) days prior to the meeting. When all other conditions are met, an amendment requires a simple majority vote of the active members of the Committee.
- Section 2 The Constitution and Bylaws and any future amendments shall be subject to the final approval of the City Council and shall not and are not intended to go beyond any of the powers and duties given to the Committee by the City Council.

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2022-024**

**RESOLUTION AUTHORIZING PAYMENT OF AN INSURANCE DEDUCTIBLE  
IN THE AMOUNT OF \$100,000 TO BELFOR PROPERTY RESTORATION,  
MODESTO, CA FOR THE CREEKSIDE GOLF CLUBHOUSE FIRE REPAIR  
AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO ISSUE  
THE PAYMENT AND EXECUTE THE AGREEMENT**

WHEREAS, on October 31, 2021, the Creekside Golf Clubhouse front entrance was damaged by a fire, and

WHEREAS, the Modesto Fire Department responded to the Clubhouse, located at 701 Lincoln Avenue, and was able to extinguish the fire before there was extensive damage, and

WHEREAS, the City's property insurance company, Alliant, dispatched Belfor Property Restoration of Modesto, CA (Belfor) to secure the property against additional damages, perform environmental testing, and close off the damaged area to protect the public from unnecessary hazards, and

WHEREAS, Belfor evaluated the site with City staff and Alliant and concluded that although damaged, the facility could be restored, and

WHEREAS, in order to ensure that the repair work is covered by the City's insurance policy, the City must use a repair company approved by the insurance provider. The City's insurance provider has identified Belfor as an approved company to perform the repairs, and

WHEREAS, the City of Modesto's property insurance policy establishes a maximum deductible (out-of-pocket cost to the City) of \$100,000, and

WHEREAS, on November 4, 2021, Belfor provided a verbal estimate to Alliant for repair of the burned structure with an initial budget estimate between \$100,000 and \$200,000, and

WHEREAS, on December 15, 2021, Belfor submitted a final estimate to Alliant in the amount of \$181,371.11 and

WHEREAS, Alliant confirmed that once the City has paid its deductible to Belfor Property Restoration, the insurance policy will cover the remainder of the project's cost, and

WHEREAS, Modesto Municipal Code Section 8-3.203 generally requires all purchases, which meet or exceed \$50,000 for material, equipment or contractual services to be formally bid, but exceptions to the formal bidding process are granted in MMC 8-3.204(d) "Where the Purchasing Manager, in his or her discretion, determines that a process other than the formal bid procedure set for in Section 8-3.203 will result in procurement for the City at the lowest possible cost commensurate with the desired quality," and

WHEREAS, this project meets these requirements, as the contractor has been selected directly by the City's insurance provider and it makes the best business sense to utilize their services, given the active insurance claim, and failure to use the contractor selected by the insurance company could result in the City having to pay for the entire amount of the repair.

NOW THEREFORE BE IT RESOLVED, by the Council of the City of Modesto that it hereby approves a payment in the amount of \$100,000 to Belfor Property Restoration, Modesto, CA for the Creekside Golf Clubhouse Fire Repair.

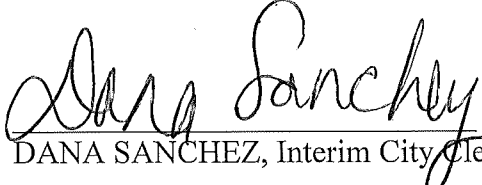
BE IT FURTHER RESOLVED, that the City Manager, or his designee, is hereby authorized to issue the payment and execute the agreement, in a form approved by the City Attorney.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 11th day of January, 2022, by Councilmember Wright, who moved its adoption, which motion being duly seconded by Councilmember Ricci, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Escutia-Braaton, Madrigal, Ricci,  
Wright, Zoslocki, Mayor Zwahlen

NOES: Councilmembers: None

ABSENT: Councilmembers: Kenoyer

ATTEST:   
DANA SANCHEZ, Interim City Clerk

(SEAL)

APPROVED AS TO FORM:

BY:   
JOSE M. SANCHEZ, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2022-025**

**RESOLUTION APPROVING THE FIRST AMENDMENT INCREASING THE AGREEMENT AMOUNT WITH VAN DE POL PETROLEUM, STOCKTON, CA FOR RENEWABLE DIESEL AND BULK FUEL SERVICES BY \$1,480,796 FROM \$1,270,000 TO A NEW TOTAL AMOUNT OF \$2,750,796 ANNUALLY AND A TOTAL REVISED AMOUNT FROM \$6,350,000 NOT TO EXCEED \$12,273,796 OVER THE TOTAL TERM OF CONTRACT, AND AUTHORIZING THE DIRECTOR OF FINANCE TO ADJUST LOCATIONS BASED ON AN AS NEEDED BASIS, ENSURING THE COMBINED TOTAL COST DOES NOT CHANGE AND AUTHORIZING THE DIRECTOR OF FINANCE , OR HER DESIGNEE, TO EXECUTE THE AMENDMENT**

WHEREAS, on February 25, 2020, by Resolution NO. 2020-098, Council approved an agreement with Van De Pol Petroleum to provide renewable diesel and bulk fuels for the City of Modesto Public Works Fleet Services Division for an estimated annual amount of \$1,270, 000 and a total amount not to exceed \$6,350,000 over a five-year period; and

WHEREAS, the purchasing agreement originally established with Van De Pol Petroleum was based on an estimate of purchases from the previous five fiscal years, and

WHEREAS, since that time, the Fleet Services Division has acquired 150 additional units from Ceres and Oakdale Fire Departments, Ceres and Escalon Transit, as well as City additions; and

WHEREAS, the Fleet Services Division not only provides service and maintenance for the Stanislaus Regional Transit Authority (StanRTA) JPA which includes 25 additional full-size transit buses but buses are also fueled by the City of Modesto; and

WHEREAS, the Modesto Fire Department, along with Ceres and Oakdale Fire have ConVaults onsite at their fire stations in order to be fueled and ready to respond to

citizen calls for emergency services; and

WHEREAS, Modesto Municipal Code Section 8-3.203 generally requires all purchases, which meet or exceed \$50,000 for material, equipment or contractual services to follow formal bid procedures. However, exceptions to the formal bidding process are granted in MMC 8-3.2049(d) “Where the Purchasing Manager in her discretion, determines that a process other than the formal bid procedure set forth in Section 8-3.203 will result in a procurement for the City at the lowest possible commensurate with the desired quality;” and

WHEREAS, in addition, MMC 8-3.202 (d) permits the Purchasing Manager to utilize other government agencies competitive bid process when the best cost savings interest of the City would be served. Here this exemption is satisfied because the Twin Rivers Unified School District did a complete competitive bid process for Fuel, Oil, Coolant and Hazardous Waste Services, and the City’s agreement with Van De Pol Petroleum is based on that process; and

WHEREAS, following the start of the agreement with Van De Pol Petroleum on February 25, 2020 fuel prices have increased by approximately 70% within the last year; and

WHEREAS, with the units that we have recently added to the City’s fleet and the ever-changing landscape in fuel prices, it is important that the City be able to keep pace with the trending fluctuation in fuel price increases; and

WHEREAS, sufficient funds are budgeted for the remainder of this agreement term to cover the annual cost of the stated increases; and

WHEREAS, approximately forty percent (40%) of these expenditures will be

billed to the Stanislaus County Regional Transit Authority Joint Powers Authority, and the Modesto Fire Department will continue to pay for their respective expenses.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the first amendment increasing the agreement amount with Van De Pol Petroleum, Stockton, CA for renewable diesel and bulk fuel services by \$1,480,796 from \$1,270,000 to a new total amount of \$2,750,796 annually and a total revised amount from \$6,350,000 not to exceed \$12,273,796 over the total term of the agreement.

BE IT FURTHER RESOLVED that the Director of Finance is authorized to adjust locations based on an as needed basis, ensuring the combined total cost does not change.

BE IT FURTHER RESOLVED that the Director of Finance, or her designee, is 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 11th day of January, 2022, by Councilmember Wright, who moved its adoption, which motion being duly seconded by Councilmember Ricci, was upon roll call carried and the resolution adopted by the following vote:

A YES: Councilmembers: Escutia-Braaton, Madrigal, Ricci, Wright, Zoslocki, Mayor Zwahlen

NOES: Councilmembers: None

ABSENT: Councilmembers: Kenoyer

ATTEST: *Dana Sanchez*  
DANA SANCHEZ, Interim City Clerk

(SEAL)

APPROVED AS TO FORM:

BY: *Jose M. Sanchez*  
JOSE M. SANCHEZ, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2022-026**

**RESOLUTION APPROVING A FIRST AMENDMENT TO THE CONSULTANT AGREEMENT WITH SLATE COMMUNICATIONS, FOR INTERIM PUBLIC RELATIONS CONSULTANT SERVICES AND COMMUNICATIONS AND OUTREACH SUPPORT FOR THE UTILITIES DEPARTMENT, AND INCREASING THE AMOUNT BY \$90,000 FROM \$50,000 TO A NEW TOTAL AMOUNT NOT TO EXCEED \$140,000, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE AMENDMENT**

WHEREAS, with the vacancy of the City of Modesto Community and Media Relations Officer position became vacant, and

WHEREAS, the City had an immediate need to hire an experienced professional consultant firm to provide public relations on an interim basis while recruiting for a permanent Community and Media Relations Officer, and

WHEREAS, on March 24, 2021, an informal request for proposal (RFP) was sent to fourteen different firms to provide interim Public Relations Consulting services, and

WHEREAS, based on providing a responsive and responsible proposal that met the requirements of the informal RFP, Staff recommended to enter into an agreement with Slate Communications, Fort Collins, CO., in an amount not to exceed \$50,000, and

WHEREAS, Slate Communications has helped the Utilities Department and the Community and Media Relations Officer (CMR) to create a programmatic logo and marketing plan that complemented the department activities, including OWM and the recent Department's "Pride in Every Drop" marketing campaign (Pride campaign), and

WHEREAS, the Utilities Department is requesting to amend the agreement with Slate Communications to add additional services to include communication support and

developing marketing strategies for the additional phases of the Pride campaign and public outreach for the Utilities Rate Studies, and

WHEREAS, based on these additional services for public relations consulting services, an additional \$40,000 will be needed for the Utilities services, and

WHEREAS, in addition to the Utilities Department's service needs, the City Manager's office requires public relations services to continue until the Human Resource Department has completed recruitment and selection efforts to fill the position of the Community and Media Relations Officer, and

WHEREAS, the Human Resources Department anticipates filling the position no later than the first quarter of 2022, and

WHEREAS, it is anticipated an additional \$50,000 will be needed to continue with the interim consultant firm to provide public relations for the City Manager's office, for a total increase of \$90,000, and

WHEREAS, funding is available in the current fiscal year in the General Fund, Water and Wastewater Funds, and various departmental funds, and

WHEREAS, this item was considered by the Economic Development Committee on December 6, 2021, and forwarded to the City Council for approval.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves a First Amendment to the Consultant Agreement with Slate Communications, for Interim Public Relations Consultant Services and Communications and Outreach Support for the Utilities Department, and increasing the amount by \$90,000 from \$50,000 to a new total amount not to exceed \$140,000.

BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to execute the amendment, in a form approved by the City Attorney.

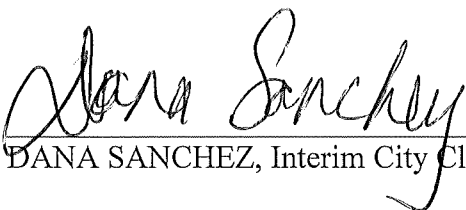
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 11th day of January, 2022, by Councilmember Wright, who moved its adoption, which motion being duly seconded by Councilmember Ricci, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Escutia-Braaton, Madrigal, Ricci,  
Wright, Zoslocki, Mayor Zwahlen

NOES: Councilmembers: None

ABSENT: Councilmembers: Kenoyer

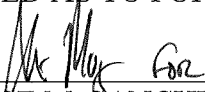
ATTEST:

  
DANA SANCHEZ, Interim City Clerk

(SEAL)

APPROVED AS TO FORM:

BY:

  
\_\_\_\_\_  
JOSE M. SANCHEZ, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2022-027**

**RESOLUTION APPROVING THE APPLICATION OF PROVIDENT SENIOR SOLUTIONS INC, AND AUTHORIZING THE ISSUANCE OF A PERMIT TO OPERATE AS A NON-EMERGENCY MEDICAL TRANSPORT COMPANY IN THE CITY OF MODESTO**

WHEREAS, Provident Senior Solutions, Inc has submitted an application to provide non-emergency medical transport services within the City of Modesto, and

WHEREAS, Provident Senior Solutions, Inc. has paid the required \$1,000 filing fee and has provided all necessary information as outlined in Modesto Municipal Code Section 3-9.03-3-9.04, and

WHEREAS, the Modesto Police Department has completed background investigations regarding Provident Senior Solutions, Inc. per Modesto Municipal Code Section 3-9.05, and

WHEREAS, Council approval is required for Provident Senior Solutions, Inc. to function as a non-emergency medical transport service provider within the City of Modesto, and

WHEREAS, a duly noticed public hearing was held by the City Council of the City of Modesto on January 11, 2022, at 5:30 p.m. in the Tenth Street Place Chambers located at 1010 Tenth Street, Modesto, California, to consider authorizing the issuance of a permit to Provident Senior Solutions, Inc. for non-emergency medical transport service within the City of Modesto, and

WHEREAS, Modesto City Council finds that Provident Senior Solutions, Inc. will serve the public convenience and necessity requirements.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the application of Provident Senior Solutions, Inc and issues Provident Senior Solutions, Inc a permit to operate as a non-emergency medical transport company in 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 January, 2022, by Councilmember Wright, who moved its adoption, which motion being duly seconded by Councilmember Madrigal, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Escutia-Braaton, Madrigal, Ricci,  
Wright, Zoslocki, Mayor Zwahlen

NOES: Councilmembers: None

ABSENT: Councilmembers: Kenoyer

ATTEST:

  
DANA SANCHEZ, Interim City Clerk

(SEAL)

APPROVED AS TO FORM:

BY:

  
\_\_\_\_\_  
JOSE M. SANCHEZ, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2022-028**

**RESOLUTION APPROVING THE CITY OF MODESTO’S HOMEKEY 2.0 PROJECT APPLICATION FOR THE PROJECT LOCATED AT 1208 9<sup>TH</sup> STREET, AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO SUBMIT THE APPLICATION, APPLICABLE DOCUMENTATION, AND PROVIDE TECHNICAL ALTERATIONS, AS REQUIRED BY THE STATE OF CALIFORNIA HOUSING AND COMMUNITY DEVELOPMENT (HCD) AS WELL AS NEGOTIATE AND EXECUTE ANY RELATED PROGRAM AGREEMENTS OR DOCUMENTS REQUIRED FOR THE IMPLEMENTATION AND ACCEPTANCE OF HOMEKEY 2.0 PROGRAM GRANT AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE TO EXECUTE ANY DOCUMENTS IN THE EXECUTION OF THIS RESOLUTION**

WHEREAS, in July of 2020, the State of California launched a \$750 million program called “Project Homekey”, with the aim of helping local communities rapidly acquire hotels, motels, commercial buildings, and other creative properties in order to rapidly house people experiencing homelessness during the COVID-19 pandemic, and

WHEREAS, by December 29, 2020, the program had resulted in the acquisition of 94 projects statewide, representing 6,029 units of permanent housing for individuals experiencing homelessness, and

WHEREAS, given the success of “Homekey 1.0”, in January of 2021, Governor Newsom’s Fiscal Year 2021-22 budget included another \$1.4 Billion dollar allocation for “Project Homekey 2.0” (Homekey 2.0) and a Notice of Funding Availability was released September 9, 2021, applications became available late September, and applications are being accepted on a rolling basis until funds are exhausted, and

WHEREAS, the mission of Homekey 2.0 is to prevent homelessness and to make homelessness rare, brief, by rapidly re-housing individuals through the provision of coordinated, compassionate, and high-quality services, and

WHEREAS during the 2021, strategic planning process conducted by the Stanislaus Community System of Care, the number one goal identified was to “Increase the availability of permanent housing for people experiencing homelessness,” and

WHEREAS, under Homekey, local entities in partnership with a co-applicant (City of Modesto) will acquire and rehabilitate a variety of housing types, including but not limited to hotels, motels, hostels, single-family homes, multifamily apartments, adult residential facilities, manufactured housing, and/or to convert commercial properties and other existing buildings to Permanent or Interim Housing for the Target Population, and

WHEREAS, in order to identify and assess, projects and developers eligible to meet the strict constraints for completion and occupancy, the City and County issued a joint Request for Information (RFI) on July 20, 2021 and this RFI targeted properties owners that The City and County are interested in sites that include, but are not limited to, hotel/motel properties, residential Single-Room Occupancy (SRO) hotels, multi- unit housing sites, and other properties that could be used for permanent housing, and

WHEREAS, the RFI was open until August 15, 2021 and received 9 local properties were interested in having their properties reviewed for eligibility, and

WHEREAS, the City under its consultation process has been approached by developer/operators interested in identifying properties that they can use to further serve their clients and one partnership that developed during this process is with Center for Human Services – Youth Housing (CHS), and

WHEREAS, Youth Housing projects have a special distinction for both operating and capital improvements as part of the Homekey 2.0 scoring criteria and CHS identified

a commercial building located at 1208 9th Street to convert into permanent supportive housing in partnership for youth, and

WHEREAS, this project will be designed to serve transitional aged youth ages 18-25 and will be used for the acquisition and commercial conversion of a building that will result in 9 studios and 5 one-bedroom apartments, and

WHEREAS, staff is seeking approval to submit an application in partnership in partnership with Center for Human Services for a grant application to the Homekey 2.0 program, with a funding request will provide \$175,000 per door plus a \$10,000 bonus for early submittal for a total funding request of up to \$3,590,000 in acquisition and capital improvements, and

WHEREAS, Project Home key has funding available to assist with operating subsidies as well. \$1,400 is available per unit per month if the funding is matched for three years, totaling Center for Human Services has been able to secure the matching funding for four years, and therefore the application will include a request for up to an additional \$705,600 in operating subsidies.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approving the City of Modesto's Homekey 2.0 Project Application for the project located at 1208 9<sup>th</sup> Street, authorizing the City Manager, or his designee, to submit the application, applicable documentation, and provide technical alterations, as required by HCD as well as negotiate and execute any related program agreements or documents required for the implementation and acceptance of Homekey 2.0 Program Grant.

BE IT FURTHER RESOLVED that the City Manager, or his designee, is authorized and directed 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 January, 2022, by Councilmember Madrigal, who moved its adoption, which motion being duly seconded by Councilmember Ricci, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Escutia-Braaton, Madrigal, Ricci,  
Zoslocki, Mayor Zwahlen

NOES: Councilmembers: None

RECLUSE: Councilmembers: Wright

ABSENT: Councilmembers: Kenoyer

ATTEST:   
DANA SANCHEZ, Interim City Clerk

(SEAL)

APPROVED AS TO FORM:

BY:   
JOSE M. SANCHEZ, City Attorney

## AUTHORIZING RESOLUTION

### RESOLUTION NO. 2022-029

#### A RESOLUTION OF THE GOVERNING BODY OF THE City of Modesto AUTHORIZING JOINT APPLICATION TO AND PARTICIPATION IN THE HOMEKEY PROGRAM

#### WHEREAS:

- A. The Department of Housing and Community Development (“**Department**”) has issued a Notice of Funding Availability, dated September 9, 2021 (“**NOFA**”), for the Homekey Program (“**Homekey**” or “**Program**”). The Department has issued the NOFA for Homekey grant funds pursuant to Health and Safety Code section 50675.1.3 (Assem. Bill No. 140 (2021-2022 Reg. Sess.), § 20.).
- B. **City of Modesto** (“**Co-Applicant**”) desires to jointly apply for Homekey grant funds with CENTER FOR HUMAN SERVICES (“**Corporation**”). Therefore, Co-Applicant is joining Corporation in the submittal of an application for Homekey funds (“**Application**”) to the Department for review and consideration.
- C. The Department is authorized to administer Homekey pursuant to the Multifamily Housing Program (Chapter 6.7 (commencing with Section 50675) of Part 2 of Division 31 of the Health and Safety Code). Homekey funding allocations are subject to the terms and conditions of the NOFA, the Application, the Department-approved STD 213, Standard Agreement (“**Standard Agreement**”), and all other legal requirements of the Homekey Program.

#### THEREFORE, IT IS RESOLVED THAT:

1. Co-Applicant is hereby authorized and directed to submit a joint Application to the Department in response to the NOFA, and to jointly apply for Homekey grant funds in a total amount not to exceed **\$7,591,200**.
2. If the Application is approved, Co-Applicant is hereby authorized and directed to enter into, execute, and deliver a Standard Agreement in a total amount not to exceed **\$7,591,200**, any and all other documents required or deemed necessary or appropriate to secure the Homekey funds from the Department and to participate in the Homekey Program, and all amendments thereto (collectively, the “**Homekey Documents**”).
3. Co-Applicant acknowledges and agrees that it shall be subject to the terms and conditions specified in the Standard Agreement, and that the NOFA and Application will be incorporated in the Standard Agreement by reference and made a part thereof. Any and all activities, expenditures, information, and timelines represented in the Application are enforceable through the Standard Agreement. Funds are to be used for the allowable expenditures and activities

4. **City Manager**, or his designee, is authorized to execute the Application and the Homekey Documents on behalf of Co-Applicant for participation in the Homekey Program.

PASSED AND ADOPTED this 11<sup>th</sup> day of January, 2022, by the following vote:

AYES: [ 5 ] NAYES: [ 0 ] ABSTAIN: [ 1 ] ABSENT: [ 1 ]

ATTEST: *Dana Sanchez*  
DANA SANCHEZ, Interim City Clerk

(SEAL)

APPROVED AS TO FORM:

BY: *Jose M. Sanchez*  
JOSE M. SANCHEZ, City Attorney

The undersigned, **Dana Sanchez**, Interim City Clerk of the City of Modesto, does hereby attest and certify that the foregoing is a true and full copy of a resolution of the governing body adopted at a duly convened meeting on the date above-mentioned, and that the resolution has not been altered, amended, or repealed.

SIGNATURE: *Dana Sanchez* DATE: *1/12/2022*

NAME: Dana Sanchez

TITLE: Interim City Clerk

## NOTICE AND INSTRUCTIONS

1. **Notice.** The Department is providing this template Authorizing Resolution as informational guidance only. The Department encourages each Co-Applicant to consult with professional legal counsel during the development of its own formal, legally binding statement that it is authorized to apply to and participate in the Homekey Program.
  - a. Please note, however, that any limitations or conditions on the authority of the signatory or signatories to execute the Application or the Homekey Documents may result in the Department rejecting the Authorizing Resolution.
2. **Accuracy, Verification.** The Department will verify that this Authorizing Resolution comports with the legal authority and composition of Co-Applicant's governing body. Co-Applicant must timely notify the Department, in writing, of any factors that limit its ability to provide an Authorizing Resolution which is materially in line with this template.
3. **Dollar Amounts of Grant Awards.** The Department recommends identifying an authorized dollar amount that is at least double the anticipated award (based on current formula calculations). Award amounts are subject to change. If Co-Applicant is ultimately awarded an amount in excess of the amount identified in the Authorizing Resolution, the Department will require a new Authorizing Resolution from Co-Applicant before execution of a Standard Agreement.
4. **Authorized Signatory or Signatories, Designee.** Co-Applicant, as a state, regional, or local public entity, may designate an authorized signatory by title only. In addition, Co-Applicant may authorize multiple signatories, so long as there is clarifying language as to whether the signatories are authorized to execute the Homekey Documents individually or collectively. In addition, Co-Applicant may authorize a designee of the authorized signatory to execute the Homekey Documents. In such case, Co-Applicant must append a supporting document (e.g., memorandum, meeting notes of official action), which indicates the name and title of the designee who is authorized to legally bind the governing body.
5. **Vote Count.** Please fill out the field by every voting category (i.e., Ayes, Nays, Abstain, Absent). If none, please indicate zero (0) for that field. The vote count must comport with the legal authority and membership of the Co-Applicant's governing body.
6. **Certification of Authorizing Resolution.** The individual who certifies the Authorizing Resolution cannot also be authorized to execute the Homekey Documents on behalf of Co-Applicant.

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2022-030**

**RESOLUTION APPROVING A LOAN FOR CENTER FOR HUMAN SERVICES  
IN AN AMOUNT UP TO \$500,000 IN PERMANENT LOCAL HOUSING  
ALLOCATION FUNDS TO ASSIST WITH THE REHABILITATION OF 1208  
9<sup>TH</sup> STREET AND AUTHORIZING THE CITY MANAGER OR HIS DESIGNEE  
TO EXECUTE THE AGREEMENTS**

WHEREAS, in September 2017, the California Legislature approved Senate Bill 2 (SB 2), known as the Building Homes and Jobs Act (Act), which established a \$75 recording fee on real estate documents to increase the supply of affordable housing and the Act established the Permanent Local Housing Allocation (PLHA) Program administered by the California Department of Housing and Community Development (HCD), and

WHEREAS, the PLHA Program provides a permanent source of funding to cities and counties to help meet the unmet need for affordable housing and increase the supply of affordable housing units, and

WHEREAS, on July 14, 2020 by Resolution number 2020-318, the City of Modesto adopted the five-year PLHA Plan, and

WHEREAS, under Homekey, local entities in partnership with a co-applicant (City of Modesto) will acquire and rehabilitate a variety of housing types, including but not limited to hotels, motels, hostels, single-family homes, multifamily apartments, adult residential facilities, manufactured housing, and/or to convert commercial properties and other existing buildings to Permanent or Interim Housing for the Target Population, and

WHEREAS, in order to identify and assess, projects and developers eligible to meet the strict constraints for completion and occupancy, the City and County issued a joint Request for Information (RFI) on July 20, 2021 and this RFI targeted properties

owners that The City and County are interested in sites that include, but are not limited to, hotel/motel properties, residential Single-Room Occupancy (SRO) hotels, multi-unit housing sites, and other properties that could be used for permanent housing, and

WHEREAS, the RFI was open until August 15, 2021 and received 9 local properties were interested in having their properties reviewed for eligibility, and

WHEREAS, the City under its consultation process has been approached by developer/operators interested in identifying properties that they can use to further serve their clients and one partnership that developed during this process is with Center for Human Services – Youth Housing, and

WHEREAS, Youth Housing projects have a special distinction for both operating and capital improvements as part of the Homekey 2.0 scoring criteria and CHS identified a commercial building located at 1208 9th Street to convert into permanent supportive housing in partnership for youth, and

WHEREAS, this project will be designed to serve transitional aged youth ages 18-25 and will be used for the acquisition and commercial conversion of a building that will result in 9 studios and 5 one-bedroom apartments, and

WHEREAS, to assist with the gap, the City is proposing a \$500,000 PLHA loan to complete the rehabilitation for the project, and

WHEREAS, the loan will be for a term of fifty-five (55) years, accruing three percent (3%) simple annual interest, with interest on the Loan deferred until the end of the term of the Loan, and the Loan will be subject to all of the requirements of the PLHA program.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves a loan for the Center for Human Services in an amount up to \$500,000 in Permanent Local Housing Allocation Funds to assist with the rehabilitation of 1208 9th Street.

BE IT FURTHER RESOLVED that the City Manager, or his designee, is authorized to execute the agreements related to the Loan, with such changes as determined by the City Attorney.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 11th day of January, 2022, by Councilmember Madrigal, who moved its adoption, which motion being duly seconded by Councilmember Ricci, was upon roll call carried and the resolution adopted by the following vote:

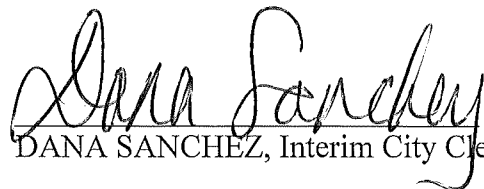
AYES: Councilmembers: Escutia-Braaton, Madrigal, Ricci,  
Zoslocki, Mayor Zwahlen

NOES: Councilmembers: None

RECLUSE: Councilmembers: Wright

ABSENT: Councilmembers: Kenoyer

ATTEST:

  
DANA SANCHEZ, Interim City Clerk

(SEAL)

APPROVED AS TO FORM:

BY: 

JOSE M. SANCHEZ, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2022-031**

**RESOLUTION AMENDING THE FISCAL YEAR 2021-2022 MULTI-YEAR  
FUND BUDGET TO ESTABLISH A PROJECT FOR THE HOMEKEY 2.0  
PROGRAM TO BE FUNDED WITH HOMEKEY 2.0 AND PERMANENT  
LOCAL HOUSING ALLOCATION PROGRAM (PLHA) GRANTS AND  
AUTHORIZING THE CITY MANAGER OR HIS DESIGNEE, TO TAKE THE  
NECESSARY STEPS TO IMPLEMENT THE PROVISIONS OF THIS  
RESOLUTION**

WHEREAS, the City of Modesto is applying to receive funding from the State of California Housing and Community Development Department (HCD) in partnership with the Center for Human Services (CHS) for the Homekey 2.0 Program, and

WHEREAS, if approved the fiscal year 2021-2022 Multi-Year budget must be amended as outlined in **Exhibit A**, and

WHEREAS, the project will be funded with approximately \$3,090,000 in Homekey 2.0 Program funds and \$500,000 in PLHA funds for property acquisition and capital improvements and \$50,000 in PLHA funds for administration, and

WHEREAS, the project will also be eligible for \$705,600 in operating subsidies funded by the Homekey 2.0 Program.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby amends the fiscal year 2021-2022 multi-year fund budget to establish a project for the Homekey 2.0 Program to be funded with HCD Homekey 2.0 Grant funds and PLHA Grant funds.

BE IT FURTHER RESOLVED that the City Manager or his designee is 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 January, 2022, by Councilmember Madrigal, who moved its adoption, which motion being duly seconded by Councilmember Ricci, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Escutia-Braaton, Madrigal, Ricci,  
Zoslocki, Mayor Zwahlen

NOES: Councilmembers: None

RECLUSE: Councilmembers: Wright

ABSENT: Councilmembers: Kenoyer

ATTEST:

  
DANA SANCHEZ, Interim City Clerk

(SEAL)

APPROVED AS TO FORM:

BY:   
JOSE M. SANCHEZ, City Attorney

## Exhibit A

<b>BUDGET ADJUSTMENT FISCAL YEAR 2021-2022</b>				
<i>City of Modesto</i>	<b>Funds Reimbursed with Entitlement State Funds</b>			
<i>Community &amp; Economic Development Department</i>	HOMEKEY 2.0 Project			
<i>Community Development Division</i>	<b>TOTAL</b>			
	Project			
Direct Loan - HOMEKEY 2.0 PLHA	TBD		\$	500,000.00
Direct Loan - HOMEKEY 2.0 PLHA Staff Time	TBD		\$	50,000.00
Direct Grant - HOMEKEY 2.0 Property Acquisition	TBD		\$	3,090,000.00
Direct Grant - HOMEKEY 2.0 Operating Subsidies	TBD		\$	705,600.00
<b>TOTAL Expenses</b>			<b>\$</b>	<b>4,345,600.00</b>
Intergov - State HOMEKEY 2.0 Program	TBD		\$	3,795,600.00
Intergov - State Housing and Community Development	TBD		\$	550,000.00
<b>TOTAL Revenues</b>			<b>\$</b>	<b>4,345,600.00</b>

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2022-032**

**RESOLUTION AMENDING THE FISCAL YEAR 2021-2022 MULTI-YEAR  
FUND BUDGET TO TRANSFER \$550,000 FROM FUND (1120) – GRANTS –  
PLHA PROGRAM TO HOMEKEY 2.0 PROJECT AND AUTHORIZING THE  
CITY MANAGER OR HIS DESIGNEE, TO TAKE THE NECESSARY STEPS TO  
IMPLEMENT THE PROVISIONS OF THIS RESOLUTION**

WHEREAS, the City of Modesto is applying to receive funding from the State of California Housing and Community Development Department (HCD) in partnership with the Center for Human Services (CHS) for the Homekey 2.0 program, and

WHEREAS, if approved the fiscal year 2021-2022 Multi-Year budget must be amended, and

WHEREAS, the Homekey 2.0 project will be funded with approximately with \$3,795,600 in Homekey 2.0 funds and \$550,000 in Permanent Local Housing Assistance (PLHA) funds for acquisition and capital improvements.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby amends the fiscal year 2021-2022 multi-year fund budget to transfer \$550,000 from fund (1120) – Grants – PLHA Program to the Homekey 2.0 project.

BE IT FURTHER RESOLVED, that the City Manager or his designee is 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 January, 2022, by Councilmember Madrigal, who moved its adoption, which motion being duly seconded by Councilmember Ricci, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Escutia-Braaton, Madrigal, Ricci,  
Zoslocki, Mayor Zwahlen

NOES: Councilmembers: None

RECLUSE: Councilmembers: Wright

ABSENT: Councilmembers: Kenoyer

ATTEST:   
DANA SANCHEZ, Interim City Clerk

(SEAL)

APPROVED AS TO FORM:

BY:   
JOSE M. SANCHEZ, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2022-033**

**RESOLUTION APPROVING PROFESSIONAL SERVICES AGREEMENT WITH PUBLIC AGENCY RETIREMENT SERVICES (PARS), NEWPORT BEACH, CA, TO PROVIDE TRUST ADMINISTRATION SERVICES FOR A THREE-YEAR CONTRACT WITH FOUR ONE-YEAR EXTENSION OPTIONS FOR A POTENTIAL SEVEN-YEAR AGREEMENT AT THE SOLE DISCRETION OF THE CITY, IN AN AMOUNT BASED ON THE FEE STRUCTURE DEFINED UNDER EXHIBIT A, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE AGREEMENT**

WHEREAS, the City Manager authorized the Human Resources Department to issue a Request for Proposals (RFP) for the furnishing of Section 115 Trust administration services, and

WHEREAS, Human Resources sent the RFP for Section 115 Trust Administration Services to five (5) prospective proposers, and

WHEREAS, following the request, three firms presented proposals to provide Section 115 Trust administration. Three (3) companies provided responsive and responsible proposals, and

WHEREAS, due to the technical nature of professional services, Modesto Municipal Code (MMC) purposely exempts professional services from formal bid requirements under MMC 8-3.204(a). Section 115 Trust administration services are professional services as defined in section 8-3.103 of the MMC, and

WHEREAS, the award of proposal for the furnishing of Section 115 Trust administration services for Citywide use to Public Agency Retirement Services (PARS), Newport Beach, CA, conforms to Modesto Municipal Code 8-3.103.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves a professional services agreement with Public Agency Retirement

Services, Newport Beach, CA to provide Section 115 Trust administration services for a three-year contract with four optional years of extension for a potential seven-year agreement at the sole discretion of the City, in an amount based on the fee structure defined under **Exhibit A** over seven years.

BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to execute the contracts in a form approved by the City Attorney.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 11th day of January, 2022, by Councilmember Wright, who moved its adoption, which motion being duly seconded by Councilmember Escutia-Braaton, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Escutia-Braaton, Madrigal, Ricci,  
Wright, Zoslocki, Mayor Zwahlen

NOES: Councilmembers: None

ABSENT: Councilmembers: Kenoyer

ATTEST:   
DANA SANCHEZ, Interim City Clerk

(SEAL)

APPROVED AS TO FORM:

BY:   
JOSE M. SANCHEZ, City Attorney

## Program Fees/Expenses

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Fees for the PARS PRSP are broken down into trust administration (paid to PARS), and discretionary trustee/investment management costs (paid to U.S. Bank/HighMark). A full breakdown of these asset-based program fees is listed below. **Please note there are no surrender, withdrawal, or deferred sales charges, nor are there any fees associated with transfer of assets or termination of contract. There are no minimum fees, start-up or termination costs associated with our program, or transaction, trading or hourly fees.**

### TRUST ADMINISTRATION/CONSULTING FEES

Trust administration fees provide for all plan administration services, including compliance monitoring, consulting, recordkeeping, funding analysis, and reporting.

COMPANY	ONGOING FEE
PARS	0.25% for assets under \$10 million 0.20% for assets \$10-15 million 0.15% for assets \$15-50 million 0.10% for assets over \$50 million

### DISCRETIONARY TRUSTEE/INVESTMENT MANAGEMENT FEES

Trustee and investment management fees are comprehensive and include investment policy development, asset allocation recommendations, asset management, and all custodial services.

City of Modesto  
IRS Code Section 115 Retirement Trust Services

COMPANY	ONGOING FEE
U.S. Bank/HighMark	0.35% for assets under \$5 million* 0.25% for assets \$5—\$10 million 0.20% for assets \$10—\$15 million 0.15% for assets \$15—\$50 million 0.10% for assets over \$50 million

*\*Please note that all fees are waived on the portfolio's money market fund. The 0.35% fee represents the highest weighted investment management fee that can be charged, but as of 6/30/21 actual fees for the 5 pre-established portfolio options ranged from 0.33% - 0.34%.*

The only additional fees not listed above are the embedded fund fees which are charged on the funds within each portfolio. **Please note that these fund level fees are already netted out of reported performance returns and are not additional fees charged on top of the asset based fees listed above.**

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2022-034**

**RESOLUTION AMENDING THE FISCAL YEAR 2021-22 ANNUAL OPERATING BUDGET TO TRANSFER FUNDS IN THE AMOUNT OF \$2,345,594 AND \$1,387,280 FROM VARIOUS FUNDS TO THE EMPLOYEE BENEFITS FUND TO ESTABLISH THE UNFUNDED ACCRUED LIABILITY (UAL) TRUST FUND CONTRIBUTION AND THE OTHER POST-EMPLOYMENT BENEFITS LIABILITY TRUST FUND CONTRIBUTION AND AUTHORIZING THE CITY MANAGER, TO TAKE THE NECESSARY STEPS TO IMPLEMENT THE PROVISIONS OF THIS RESOLUTION**

WHEREAS, the City is contracted with the California Public Employees Retirement System (CalPERS) to provide both Safety and Miscellaneous employees with a pension retirement, and

WHEREAS, CalPERS funds approximately 58% of the full liability of their pension obligation through investment returns and determines employer and employee contributions based on an assumed rate of return which causes volatility in the fund and has created shortfalls over the past several years, and

WHEREAS, CalPERS began requiring an additional payment beyond the normal cost for each agency to correct the Unfunded Accrued Liability (UAL), which gradually climbs over the next ten years and then begins to decline as each contract closes in on the UAL balance, and

WHEREAS, the need for an Other Post-Employment Benefits liability trust is recognized to manage and mitigate growing liabilities due to growth in the workforce and fire services contracts with neighboring agencies, and

WHEREAS, the City requests to contribute \$1,000,000 of Employee Benefits Fund (EBF) reserves to the Pension Trust as well as additional funds of \$120,651 that have been held in trust from the 50% Modesto Confidential and Management Association

(MCMA) employee contribution that was established as part of recent concessions in Fiscal Year 2020-21, and

WHEREAS, the City adopted a policy for excess funds realized during a fiscal year that one third of the excess General Fund carryover be deposited into the General Fund reserves, one third would be dedicated to deferred maintenance, and one third would be utilized for pension costs, and

WHEREAS, staff recommends total City contributions to the UAL Trust Fund from various funds as follows:

<b>UAL Trust Fund Contribution</b>	
<b>Fund</b>	<b>Total</b>
0100 - General Fund	\$ 1,000,000
0100 - General Fund - Ceres Contract	\$ 17,246
0100 - General Fund - Oakdale Contract	\$ 12,319
1700 - Surface Transportation Fund	\$ 34,754
3220 - Infrastructure Financing Program Administration	\$ 5,004
4000 - Parking Fund	\$ 3,141
4100 - Water Fund	\$ 84,142
4210 - Sewer Operations Fund	\$ 92,442
4310 - Airport Operating Fund	\$ 3,664
4480 - Storm Drainage Fund	\$ 3,308
4700 - Community Center Operations Fund	\$ 2,973
4890 - Compost Fund	\$ 5,005
4891 - Solid Waste Fund	\$ 5,697
4892 - Green Waste Fund	\$ 21,575
5110 - Inventory Purchases Fund	\$ 1,462
5120 - Mail Services ISF Fund	\$ 729
5230 - Information Technology Fund	\$ 27,819
5310 - Insurance - Administration Fund	\$ 3,585
5400 - Fleet Management Fund	\$ 15,954
5510 - Employee Benefits Management Fund	\$ 1,000,000
5800 - P/R Building Services Fund	\$ 4,775
<b>Grand Total</b>	<b>\$ 2,345,594</b>

WHEREAS, staff recommends total City contributions to the OPEB Trust Fund from various funds as follows:

**OPEB Trust Fund Contribution**

<b>Fund</b>	<b>Total</b>
0100 - General Fund	\$ 900,000
0100 - General Fund - Ceres Contract	\$ 42,790
0100 - General Fund - Oakdale Contract	\$ 30,564
1700 - Surface Transportation Fund	\$ 45,573
3220 - Infrastructure Financing Program Administration	\$ 6,026
4000 - Parking Fund	\$ 3,995
4100 - Water Fund	\$ 107,641
4210 - Sewer Operations Fund	\$ 116,123
4310 - Airport Operating Fund	\$ 4,588
4480 - Storm Drainage Fund	\$ 4,303
4700 - Community Center Operations Fund	\$ 3,638
4890 - Compost Fund	\$ 6,415
4891 - Solid Waste Fund	\$ 7,019
4892 - Green Waste Fund	\$ 27,685
5110 - Inventory Purchases Fund	\$ 1,826
5120 - Mail Services ISF Fund	\$ 950
5230 - Information Technology Fund	\$ 34,289
5310 - Insurance - Administration Fund	\$ 5,252
5400 - Fleet Management Fund	\$ 31,377
5520 - Employee Benefits Administration Fund	\$ 1,257
5800 - P/R Building Services Fund	\$ 5,969
<b>Grand Total</b>	<b>\$ 1,387,280</b>

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves amending the Fiscal Year 2021-22 Annual Operating to transfer funds in the amount of \$2,345,594 and \$1,387,280 from various funds as referenced herein to the Employee Benefits Fund to establish the Unfunded Accrued Liability (UAL) Trust Fund Contribution and the Other Post-Employment Benefits Liability Trust Fund Contribution.

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 11th day of January, 2022, by Councilmember Wright, who moved its adoption, which motion being duly seconded by Councilmember Escutia-Braaton, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Escutia-Braaton, Madrigal, Ricci,  
Wright, Zoslocki, Mayor Zwahlen

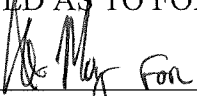
NOES: Councilmembers: None

ABSENT: Councilmembers: Kenoyer

ATTEST:   
DANA SANCHEZ, Interim City Clerk

(SEAL)

APPROVED AS TO FORM:

BY:   
JOSE M. SANCHEZ, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2022-035**

**RESOLUTION AUTHORIZING STAFF TO SUBMIT A CALIFORNIA DEPARTMENT OF TRANSPORTATION CLEAN CALIFORNIA LOCAL GRANT INTENDED TO DEVELOP A CITY-OWNED VACANT LOT AT 1850 ROUSE AVENUE (APN: 037053040) TO A WALKING PATH WITH AMENITIES FOR THE NEIGHBORHOOD, AND A GRANT APPLICATION FOR FINANCIAL SUPPORT TO LAUNCH A MULTI-FAMILY BULKY ITEM PICK-UP PROGRAM AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE SUCH DOCUMENTS AS NECESSARY TO CARRY OUT THE PURPOSE OF THIS RESOLUTION**

WHEREAS, the Clean California Local Grant Program (CCLGP) is a competitive statewide program created to beautify and clean up local streets and roads, tribal lands, parks, pathways, transit centers, and other public spaces, and

WHEREAS, the Program is one part of the nearly \$1.1 billion Clean California initiative that takes direct aim at the continuous trash generation that has overwhelmed communities, and

WHEREAS, as identified in a 2020 comprehensive community survey, and in a series of community meetings throughout the preceding 24 months, the most prevalent concerns raised by Modesto residents have been related to blight, and

WHEREAS, blight is defined as unmaintained vacant properties, abandoned vehicles, tagging, litter, and illegal dumping; and, the neighborhood at Rouse Avenue is an economically disadvantaged neighborhood that has experienced approximately 500 blight concerns in the last 4 years which is significantly above average, and

WHEREAS, staff finds that a significant amount of illegal dumping is found in or near multi-family complexes, and

WHEREAS, based on this data, staff is seeking to submit a Clean California Grant that would develop the vacant lot at 1850 Rouse Avenue, into a walking path with

urban greening and exercise equipment, modeled after the Virginia Corridor Trail that is a staple for Modesto residents, and

WHEREAS, considering that residents who reside in a multi-family dwelling in Modesto do not have access to a bulky item pick-up program – creating a significant illegal dumping concern in Modesto, and if awarded the grant, the City would launch a program specifically for residents who live in multi-family dwellings which would fill this critical need in our community, and

WHEREAS, staff has also contacted neighborhood leaders, faith-based leaders, local nonprofits, Modesto City Schools, and the County of Stanislaus – each of which have agreed to provide a letter of support for this project, and

WHEREAS, the project location is 1850 Rouse Avenue in Modesto, California (APN: 037053040) and is a heavily blighted pathway approximately 12 meters in width and 100 meters in length that connects adjacent neighborhoods to nearby elementary schools, commercial areas, parks, and transit stops, and

WHEREAS, the City will seek to transform this vacant lot into a walking path that the community can take pride in. Further, the vision of this initiative includes the installation of urban greening, exercise equipment, and

WHEREAS, to address illegal dumping, the City proposes implementation of a bulky item pickup program for multifamily units, which is currently not available to residents, and

WHEREAS, Caltrans will determine whether a match is required for this grant application – however, no match funds are anticipated because the grant is aimed at directly supporting disadvantaged neighborhoods, and

WHEREAS, Council action authorizing staff to submit an application does not bind the City into any requirements associated with the grant. Staff will be returning to Council for a formal request to accept the grant and to enter into an agreement with CalTrans to receive the funds, and

WHEREAS, the City will be seeking a grant award of up to \$1 million for the improvements to 1850 Rouse Avenue, and to support the launch of the multi-family bulky item program.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby authorizes the City Manager, or his designee, to submit a Clean California Grant intended to develop a city-owned vacant lot at 1850 Rouse Avenue (APN: 037053040) to a walking path with amenities for the neighborhood, and a grant application for financial support to launch a multi-family bulky item pick-up program.

BE IT FURTHER RESOLVED by the Council of the City of Modesto that it hereby authorizes the City Manager, or his designee, to execute such documents as necessary to carry out the purpose 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 January, 2022, by Councilmember Escutia-Braaton, who moved its adoption, which motion being duly seconded by Councilmember Kenoyer, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Escutia-Braaton, Kenoyer, Madrigal, Ricci, Wright, Zoslocki, Mayor Zwahlen

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST:   
DANA SANCHEZ, Interim City Clerk

(SEAL)

APPROVED AS TO FORM:

BY:   
JOSE M. SANCHEZ, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2022-036**

**RESOLUTION APPROVING A SETTLEMENT AGREEMENT WITH JOHN K. PELTIER, ADMINISTRATOR OF THE ESTATE OF IDA A. MCCLURE AND RESCINDING RESOLUTION NO. 2015-477, REMOVING THE SURPLUS DESIGNATION FROM THE MCCLURE PROPERTY AND AUTHORIZING THE CITY MANAGER OR HIS DESIGNEE, TO EXECUTE THE AGREEMENT**

WHEREAS, in 1973, the City of Modesto purchased real property from Ida McClure, including a Victorian style former residential structure (McClure House), a 14.3 acre orchard and caretaker's house located at the north end of N. McClure Road, south of Dry Creek and east of Creekside Golf Course (collectively, the "McClure Property"); and

WHEREAS, over the years, the McClure House has needed repairs that outpaced the City's ability to maintain the facility for public access; and

WHEREAS, because of this, Council adopted Resolution 2015-477 approving approximately 16 acres of the McClure Property as a surplus and authorized City staff to sell the property, including the McClure House; and

WHEREAS, following Council approval of Resolution 2015-477, John K. Peltier (Peltier), representing Ida McClure, filed a John K. Peltier v. City of Modesto, et al, Case Number 2022652 in Stanislaus County Superior Court, naming the City as Defendant (the "Legal Action"); and

WHEREAS, the Legal Action halted the sale of the property and both parties initiated and participated in good faith settlement negotiations to resolve the disputed issues; and

WHEREAS, the parties have negotiated terms for a settlement, substantially in the form presented to this City Council (the "Settlement Terms").

NOW, THEREFORE, BE IT RESOLVED, by the Council of the City of Modesto that it hereby approves the Settlement Terms, substantially as presented to this City Council; and

BE IT FURTHER RESOLVED that this City Council hereby rescinds Resolution No. 2015-477, and removes the McClure Property from the City's surplus property list; and

BE IT FURTHER RESOLVED, that the City Manager, or his designee, is hereby authorized to execute the settlement agreement, in a form approved by the City Attorney, and to execute such documents and take such action as are necessary to carry out the intent of the settlement.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 25th day of January, 2022, by Councilmember Escutia-Braaton, who moved its adoption, which motion being duly seconded by Councilmember Kenoyer, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Escutia-Braaton, Kenoyer, Madrigal, Ricci, Wright, Zoslocki, Mayor Zwahlen

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST:   
DANA SANCHEZ, Interim City Clerk

(SEAL)

APPROVED AS TO FORM:

BY:   
JOSE M. SANCHEZ, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2022-037**

**RESOLUTION APPROVING AN INCREASE TO THE PURCHASE ORDER AMOUNT WITH DELL TECHNOLOGIES, OF ROUND ROCK, TX BY \$ 291,534 FROM \$1,950,000 TO NEW TOTAL AMOUNT NOT TO EXCEED \$2,241,534; AND AUTHORIZING THE PURCHASING MANAGER, OR HER DESIGNEE, TO EXECUTE THE PURCHASE ORDER**

WHEREAS, mobile data computers (MDCs) are used in order to ensure appropriate access to confidential records from local, state and national law enforcement databases and to ensure effective electronic communications between department members and dispatch personnel, and

WHEREAS, for the Police Department, these computers are utilized in patrol vehicles as the primary way Officers and Community Service Officers receive call for service related information; and

WHEREAS, on September 24, 2019, by Resolution 2019-418, Council approved the award of a purchase order for three-year agreement for the purchase of desktop computers, laptops, tablets, software and services to Dell Technologies, of Round Rock, TX, for an initial cost not to exceed \$1.35M and a total amount not to exceed \$1.95M over the three-years; and

WHEREAS, MDCs are typically replaced every five years and it is unknown ahead of time what brand and specification of MDC will meet the ever-changing technology needs of the Police Department; and

WHEREAS, the agreement to Dell Technologies, of Round Rock, TX was awarded in September of 2019 and the formal bid process took place approximately six months prior to that; well before the Police Department would have been ready to begin the evaluation of replacement MDC specifications; and

WHEREAS, the Police Department, in conjunction with its embedded Information Technology staff and the Fleet Services Division of Public Works, have completed the evaluation and selection of all the necessary components of the MDC replacement.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves an increase to the purchase order amount with Dell Technologies, of Round Rock, TX by \$ 291,534 from \$1,950,000 to new total amount not to exceed \$2,241,534.

BE IT FURTHER RESOLVED, that the Purchasing Manager, or her designee, is hereby authorized to execute the purchase order.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 25th day of January, 2022, by Councilmember Escutia-Braaton, who moved its adoption, which motion being duly seconded by Councilmember Kenoyer, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Escutia-Braaton, Kenoyer, Madrigal, Ricci, Wright, Zoslocki, Mayor Zwahlen

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST:   
DANA SANCHEZ, Interim City Clerk

(SEAL)

APPROVED AS TO FORM:

BY:   
JOSE M. SANCHEZ, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2022-038**

**RESOLUTION APPROVING A FIRST AMENDMENT AND INCREASING THE AGREEMENT AMOUNT WITH STOMMEL INC. DBA LEHR AUTO ELECTRIC, SACRAMENTO, CA BY \$125,295 FROM \$320,000 TO \$445,295 FOR THE FIRST TWO (2) YEARS AND NEW TOTAL AMOUNT NOT TO EXCEED \$925,295, FOR THE PURCHASE AND INSTALATION OF MOBILE DATA COMPUTERS FOR THE MODESTO POLICE DEPARTMENT, AND ALLOW THE DIRECTOR OF FINANCE TO ADD PARTS AND SERVICES TO THE LEHR AUTO ELECTRIC AGREEMENT AS BUSINESS NEEDS CHANGE; AND AUTHORIZING THE DIRECTOR OF FINANCE, OR HER DESIGNEE, TO EXECUTE THE AMENDMENT**

WHEREAS, mobile data computers (MDCs) are used in order to ensure appropriate access to confidential records from local, state and national law enforcement databases and to ensure effective electronic communications between department members and dispatch personnel; and

WHEREAS, for the Police Department, these computers are utilized in patrol vehicles as the primary way Officers and Community Service Officers receive call for service related information; and

WHEREAS, on December 8, 2020, by Resolution 2020-514, Council approved the award of agreement to Stommel Inc. DBA Lehr Auto Electric, Sacramento, CA for a two-year agreement with three 1-year extension options, for an annual estimated cost of \$160,000 and total amount not to exceed \$800,000 over five years; and

WHEREAS, MDCs are typically replaced every five years and it is unknown ahead of time what brand and specification of MDC will meet the ever-changing technology needs of the Police Department; and

WHEREAS, the agreement to Stommel Inc. DBA Lehr Auto Electric, Sacramento, CA was awarded in December of 2020 – similar to the process for selecting

the replacement MDCs, until the department selects the replacement MDC, the mounting set up and components cannot be known; and

WHEREAS, the Police Department, in conjunction with its embedded Information Technology staff and the Fleet Services Division of Public Works, have completed the evaluation and selection of all the necessary components of the MDC replacement.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves a first amendment and increasing the agreement amount with Stommel Inc. DBA Lehr Auto Electric, Sacramento, CA by \$125,295 from \$320,000 to \$445,295 for the first two (2) years and new total amount not to exceed \$925,295, for the purchase and installation of mobile data computers for the Modesto Police Department.

BE IT FURTHER RESOLVED to allow the Director of Finance to add parts and services to the Lehr Auto Electric agreement as business needs change.

BE IT FURTHER RESOLVED, that the Director of Finance, or her designee, is hereby authorized to execute the amendment.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 25th day of January, 2022, by Councilmember Escutia-Braaton, who moved its adoption, which motion being duly seconded by Councilmember Kenoyer, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Escutia-Braaton, Kenoyer, Madrigal, Ricci, Wright, Zoslocki, Mayor Zwahlen

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST:   
DANA SANCHEZ, Interim City Clerk

(SEAL)

APPROVED AS TO FORM:

BY:   
JOSE M. SANCHEZ, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2022-039**

**RESOLUTION APPROVING THE AWARD OF BID FOR A THREE AXLE  
ROLL-OFF BIN HAULER TRUCK TO INTERSTATE TRUCK CENTER, LLC,  
STOCKTON, CA FOR A TOTAL AMOUNT NOT TO EXCEED \$164,941; AND  
AUTHORIZING THE PURCHASING MANAGER, OR HER DESIGNEE, TO  
ISSUE THE PURCHASE ORDER**

WHEREAS, this vehicle is used to support street sweeping operations for the Green Waste Division; and

WHEREAS, Modesto Municipal Code Section 8-3.203 requires all purchases, which meet or exceed \$50,000 for material, equipment or contractual services to be formally bid; and

WHEREAS, on October 28, 2021, the Purchasing Division issued Request for Bids (RFB) 2122-33 for Bid Hauler truck on the City's website under commodity codes- 07053 Trucks (With Specialized Bodies – Aerial Ladders and Tower Buckets, Diggers, ETC) and 07054 Truck Diesel (All Capacities); and

WHEREAS, fourteen companies downloaded the RFB document, one vendor chose to submit a bid, there was no local bid received; and

WHEREAS, on November 30, 2021, bids were formally opened in the City Clerk's office and Interstate Truck Center, LLC, Stockton, CA, was the only responsive and responsible bidder; and

WHEREAS, based on providing the only responsive and responsible bid which conforms to the Modesto Municipal Code, Section 8-3.203 City staff recommends the award of bid for a Three Axle Roll-off Bin Hauler Truck to Interstate Truck Center, LLC, Stockton, CA.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the award of bid for a Three Axle Roll-off Bin Hauler Truck to Interstate Truck Center, LLC, Stockton, CA for a total amount not to exceed \$164,941.

BE IT FURTHER RESOLVED, that the Purchasing Manager, or her designee, is hereby authorized to execute the purchase order.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 25th day of January, 2022, by Councilmember Escutia-Braaton, who moved its adoption, which motion being duly seconded by Councilmember Kenoyer, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Escutia-Braaton, Kenoyer, Madrigal, Ricci, Wright, Zoslocki, Mayor Zwahlen

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST:   
DANA SANCHEZ, Interim City Clerk

(SEAL)

APPROVED AS TO FORM:

BY:   
JOSE M. SANCHEZ, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2022-040**

**RESOLUTION APPROVING THE COMPETITIVE BIDDING PROCESS FROM SOURCEWELL (FORMERLY NATIONAL JOINT POWERS ALLIANCE) WITH CATERPILLAR INC. AUTHORIZED DEALER HOLT OF CA, STOCKTON, CA FOR TWO LOADER CLAWS FOR A TOTAL AMOUNT NOT TO EXCEED \$242,870; AND AUTHORIZING THE PURCHASING MANAGER, OR HER DESIGNEE, TO ISSUE THE PURCHASE ORDER**

WHEREAS, these loaders will be fitted with Claw style buckets and will be used by the trees and green waste divisions to pick up green waste and leaves throughout the city; and

WHEREAS, on January 31, 2019, Sourcewell issued Request for Proposals (RFP) #032119 for Heavy Construction Equipment with Related Accessories, Attachments, and Supplies on the Sourcewell website, the New York State Contract Reporter website, the Onvia website, and the PublicPurchase.com website; and

WHEREAS, the RFP was also advertised and distributed to 98 vendors; and

WHEREAS, fifteen proposals were received and based on the Sourcewell Proposal Review Committee and criteria outlines in the RFP, fourteen contracts were awarded for Heavy Construction Equipment with Related Accessories, Attachments and Supplies; and

WHEREAS, Modesto Municipal Code Section 8-3.203 generally requires all purchases that meet or exceed \$50,000 for material, equipment or contractual services to be formally bid. However, exceptions to the formal bidding process are granted in MMC 8-3.204(d) “Where the Purchasing Manager, in her discretion, determines that a process other than the formal bid procedure set for 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 competitive bidding process from Sourcewell (formerly National Joint Powers Alliance) with Caterpillar Inc. authorized dealer Holt of CA, Stockton, CA for two loaders for a total amount not to exceed \$242,870.

BE IT FURTHER RESOLVED, that the Purchasing Manager, or her designee, is hereby authorized to execute the purchase order.


The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 25th day of January, 2022, by Councilmember Escutia-Braaton, who moved its adoption, which motion being duly seconded by Councilmember Kenoyer, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Escutia-Braaton, Kenoyer, Madrigal, Ricci, Wright, Zoslocki, Mayor Zwahlen

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST:

  
DANA SANCHEZ, Interim City Clerk

(SEAL)

APPROVED AS TO FORM:

BY:

  
JOSE M. SANCHEZ, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2022-041**

**RESOLUTION APPROVING THE AWARD OF BID FOR THE TWELVE HALF-TON TRUCKS TO PENSKE CHEVROLET, CERRITOS, CA TO FOR A TOTAL AMOUNT NOT TO EXCEED \$425,159 AND AUTHORIZING THE PURCHASING MANAGER, OR HER DESIGNEE, TO ISSUE THE PURCHASE ORDER**

WHEREAS, these vehicles used to support daily operations for City parks and public facilities, water and wastewater utilities, building compliance, electrical and police; and

WHEREAS, Modesto Municipal Code Section 8-3.203 requires all purchases, which meet or exceed \$50,000 for material, equipment or contractual services to be formally bid; and

WHEREAS, on October 22, 2021, the Purchasing Division issued Request for Bids (RFB) 2021-37 for Half-Ton Trucks on the City's website under commodity code - 07048-Trucks (One-ton and less capacity; and

WHEREAS, twenty-five companies downloaded the RFB document, five vendors chose to submit a bid, there was no local bid received; and

WHEREAS, on November 23, 2021, bids were formally opened in the City Clerk's office and Penske Chevrolet, Cerritos, CA, was the lowest responsive and responsible bidder; and

WHEREAS, based on providing the only responsive and responsible bid which conforms to the Modesto Municipal Code, Section 8-3.203 City staff recommends the award of bid for a Twelve Half-ton Trucks to Penske Chevrolet, Cerritos, CA.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the award of bid for Twelve Half-ton Trucks to Penske Chevrolet, Cerritos, CA to for a total amount not to exceed \$425,159.


BE IT FURTHER RESOLVED, that the Purchasing Manager, or her designee, is hereby authorized to execute the purchase order.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 25th day of January, 2022, by Councilmember Escutia-Braaton, who moved its adoption, which motion being duly seconded by Councilmember Kenoyer, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Escutia-Braaton, Kenoyer, Madrigal, Ricci, Wright, Zoslocki, Mayor Zwahlen

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST:   
DANA SANCHEZ, Interim City Clerk

(SEAL)

APPROVED AS TO FORM:

BY:   
JOSE M. SANCHEZ, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2022-042**

**RESOLUTION APPROVING AN AGREEMENT TO PROVIDE FIRE ADMINISTRATIVE SERVICES BETWEEN THE CITY OF MODESTO AND THE STANISLAUS CONSOLIDATED FIRE PROTECTION DISTRICT FOR A FIVE-YEAR, FIVE-MONTH TERM, WITH ONE TWO-YEAR EXTENSION OPTION, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE AGREEMENT**

WHEREAS, the City of Modesto (“COM”) and Stanislaus Consolidated Fire Protection District (“SCFPD”) both provide fire protection services, as well as emergency medical services, special operations and administrative services; and

WHEREAS, the SCFPD Board recently requested a proposal to provide fire administrative services to their district; and

WHEREAS, in order to maintain fire services for SCFPD, the department is requesting one Deputy Chief, at the Assistant Chief pay rate, to represent the district and serve as their Fire Chief, overseeing and administering SCFPD operations including budget, training, personnel, facilities, and all other district operations; and

WHEREAS, the department is also requesting one Administrative Office Assistant III (“AOA III”) to provide administrative support; and

WHEREAS, such individuals will remain employees of the City of Modesto under the supervision and control of the Modesto Fire Chief; and

WHEREAS, only a portion of each individual’s job functions will be to provide services to SCFPD and they will continue to serve the City’s Fire Department; and

WHEREAS, the initial term of the agreement will be for five years and five months, from February 1, 2022 through June 30, 2027, with the option to extend for an additional two-year term if all parties agree no later than June 30, 2026; and

WHEREAS, this agreement positively impacts the General Fund through the economies of scale from regionalization; and

WHEREAS, the total anticipated cost of the contract, over the five-year, five-month term is \$1,735,132; and

WHEREAS, the anticipated revenue generated from the administrative fee, over the five-year, five-month term is \$250,000.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Council hereby approves the agreement to provide fire administrative services between the City of Modesto and the Stanislaus Consolidated Fire Protection District for a five-year, five-month term, with one two-year extension option.

BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to execute the agreement, in a form approved by the City Attorney.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 25th day of January, 2022, by Councilmember Kenoyer, who moved its adoption, which motion being duly seconded by Councilmember Wright, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Escutia-Braaton, Kenoyer, Madrigal, Ricci,  
Wright, Zoslocki, Mayor Zwahlen

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST:   
DANA SANCHEZ, Interim City Clerk

(SEAL)

APPROVED AS TO FORM:

BY:   
JOSE M. SANCHEZ, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2022-043**

**RESOLUTION AMENDING THE POSITION ALLOCATION FOR FISCAL  
YEAR 2021-2022 AS ADOPTED IN THE OPERATING BUDGET**

WHEREAS, per Personnel Administrative Order 2.2-87-12, a classification study may be conducted in response to a reclassification request, to develop/revise a classification specification, or to assist in a reorganization; and

WHEREAS, classifications are being added to support a contract for fire administrative services with the Stanislaus Consolidated Fire Protection District; and

WHEREAS, position changes will be effective the pay period in which February 1, 2022 falls, (Pay Period beginning February 1, 2022).

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves amending the Position Allocation and the Fiscal Year 2021-2022 Operating Budget for various departments as follows:


1. Create one (1) Deputy Chief at the Assistant Fire Chief pay rate.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 25th day of January, 2022, by Councilmember Kenoyer, who moved its adoption, which motion being duly seconded by Councilmember Wright, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Escutia-Braaton, Kenoyer, Madrigal, Ricci, Wright, Zoslocki, Mayor Zwahlen

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST:   
DANA SANCHEZ, Interim City Clerk

(SEAL)

APPROVED AS TO FORM:

BY:   
JOSE M. SANCHEZ, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2022-044**

**RESOLUTION AMENDING THE FISCAL YEAR 2021-22 OPERATING  
BUDGET BY \$148,364 IN REVENUES AND \$127,530 IN EXPENSES AND  
AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE TO IMPLEMENT  
THE PROVISIONS OF THIS RESOLUTION**

WHEREAS, the City of Modesto (“COM”) and Stanislaus Consolidated Fire Protection District (“SCFPD”) both provide fire protection services, as well as emergency medical services, special operations and administrative services; and

WHEREAS, the SCFPD Board recently requested a proposal to provide fire administrative services to their district; and

WHEREAS, in order to maintain fire services for SCFPD, the department is requesting one Deputy Chief, at the Assistant Chief pay rate, to represent the district and serve as their Fire Chief, overseeing and administering SCFPD operations including budget, training, personnel, facilities, and all other district operations as directed by the SCFPD Board of Directors; and

WHEREAS, the department is also requesting one Administrative Office Assistant III (“AOA III”) to provide administrative support; and

WHEREAS, the initial term of the agreement will be for five years and five months, from February 1, 2022 through June 30, 2027, with the option to extend for an additional two-year term if all parties agree no later than June 30, 2026; and

WHEREAS, this agreement positively impacts the General Fund through the economies of scale from regionalization; and

WHEREAS, the total anticipated cost of the contract, over the five-year, five-month term is \$2,071,686; and

WHEREAS, the anticipated revenue generated from the administrative fee, over the five-year, five-month term is \$250,000.

WHEREAS, certain budgetary adjustments are necessary to fund this action.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves amending the Fiscal Year 2021-22 Operating Budget by \$148,364 in revenues and \$127,530 in expenses in Modesto Fire Department – Fire Services Cost Center (18214) in the General Fund to support this action.

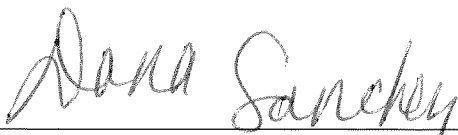
BE IT FURTHER RESOLVED, that the City Manager, or his designee is hereby authorized to implement the provisions of this resolution.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 25th day of January, 2022, by Councilmember Kenoyer, who moved its adoption, which motion being duly seconded by Councilmember Wright, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Escutia-Braaton, Kenoyer, Madrigal, Ricci, Wright, Zoslocki, Mayor Zwahlen

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST:   
DANA SANCHEZ, Interim City Clerk

(SEAL)

APPROVED AS TO FORM:

BY:   
JOSE M. SANCHEZ, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2022-045**

**RESOLUTION APPROVING AN AGREEMENT TO PROVIDE FIRE PROTECTION SERVICES BETWEEN THE CITY OF MODESTO, THE CITY OF OAKDALE AND OAKDALE FIRE PROTECTION DISTRICT FOR A FIVE-YEAR TERM, WITH ONE TWO-YEAR EXTENSION OPTION, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE AGREEMENT**

WHEREAS, the City of Oakdale (“Oakdale”) and the Oakdale Fire Protection District (“District”) are currently in contract for fire protection services with the City of Modesto (“COM”) that will expire June 30, 2021; and

WHEREAS, COM currently provides services within Oakdale’s and District’s jurisdictional boundaries, such as fire protection, prevention, suppression services, emergency medical services and preparedness, mitigation of hazardous materials incidents, confined space rescue, technical rescue and water rescue; and

WHEREAS, in June 2019, by Resolution 2019-270, Council approved an agreement for COM to provide fire protection services to Oakdale and District; and

WHEREAS, all partnered agencies have noticed great success since the beginning of the contract, subsequently resulting in discussions of extending the agreement; and

WHEREAS, both the Oakdale Fire Protection District Board and Oakdale City Council unanimously approved the agreement and affirmed continued collaboration with COM at their December meetings; and

WHEREAS, the initial term of the agreement will be for five years, from July 1, 2022 through June 30, 2027, with the option to extend for one additional two-year term if all parties agree no later than June 30, 2026; and

WHEREAS, Oakdale and District will continue to compensate COM for all services provided, pursuant to the terms and conditions of the agreement; and

WHEREAS, this agreement positively impacts the General Fund through the economies of scale from regionalization; and

WHEREAS, the total anticipated revenue, over the five year term, is \$29,094,750. The total anticipated expenditures is \$28,644,750. The total anticipated net revenue is \$450,000.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Council hereby approves the agreement to provide fire protection services between the City of Modesto, the City of Oakdale and the Oakdale Fire Protection District for a five-year term, with one two-year extension option.

BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to execute the agreement, in a form approved by the City Attorney.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 25th day of January, 2022, by Councilmember Wright, who moved its adoption, which motion being duly seconded by Councilmember Kenoyer, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Escutia-Braaton, Kenoyer, Madrigal, Ricci, Wright, Zoslocki, Mayor Zwahlen

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST:   
DANA SANCHEZ, Interim City Clerk

(SEAL)

APPROVED AS TO FORM:

BY:   
JOSE M. SANCHEZ, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2022-046**

**RESOLUTION APPROVING AN AGREEMENT WITH ARROW  
CONSTRUCTION, OF MANTECA, CA, FOR SUBSURFACE EXPLORATION  
(POTHOLING) SERVICES FOR THE LA LOMA SEWER PROJECT IN THE  
AMOUNT OF \$143,000 FOR THE IDENTIFIED SCOPE OF SERVICES, PLUS  
\$14,300 IN ADDITIONAL SERVICES, IF NEEDED, FOR A TOTAL AMOUNT  
NOT TO EXCEED \$157,300 AND AUTHORIZING THE CITY MANAGER, OR  
HIS DESIGNEE, TO EXECUTE THE AGREEMENT**

WHEREAS, a Closed-Circuit Television (CCTV) survey inspection was conducted in 2014 throughout Downtown Modesto to assess and categorize the conditions of numerous sewer main segments within the study area, and

WHEREAS, the La Loma Sewer Project is a direct result of this 2014 CCTV study, in which multiple sewer main segments within the La Loma Neighborhood were identified as having deficiencies and deterioration, and

WHEREAS, the La Loma Sewer project will involve the removal and replacement of aging and failing sewer main segments in the La Loma Neighborhood, and

WHEREAS, subsurface exploration (potholing) services as necessary due to the number of existing underground utilities within the project area, and

WHEREAS, identifying the exact horizontal and vertical locations of all underground utilities during the design phase, will thereby reduce the potential of change orders during the construction phase of the project, and

WHEREAS, in accordance with Modesto Municipal Code 8-3.204(a) Exceptions to Formal Bidding Requirements, this agreement is for professional services and, therefore, exempt from the bid requirement, and

WHEREAS, staff recommends approval of an agreement with Arrow Construction, of Manteca, CA for Subsurface Exploration (Potholing) Services for the La Loma Sewer Project.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves an agreement with Arrow Construction, Manteca, CA for Subsurface Exploration (Potholing) Services for the La Loma Sewer Project in the amount of \$143,000, for the identified scope of services, plus \$14,300 in additional services, if needed, for a total not to exceed amount of \$157,300.

BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to execute the agreement in a form approved by the City Attorney.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 25th day of January, 2022, by Councilmember Escutia-Braaton, who moved its adoption, which motion being duly seconded by Councilmember Kenoyer, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Escutia-Braaton, Kenoyer, Madrigal, Ricci,  
Wright, Zoslocki, Mayor Zwahlen

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST:   
DANA SANCHEZ, Interim City Clerk

(SEAL)

APPROVED AS TO FORM:

BY:   
JOSE M. SANCHEZ, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2022-047**

**RESOLUTION APPROVING AN AGREEMENT WITH WEST YOST ASSOCIATES, OF SACRAMENTO, CA, FOR ENGINEERING SERVICES FOR THE DEVELOPMENT OF A WELL EQUIPPING DESIGN TEMPLATE IN THE AMOUNT OF \$70,300 FOR THE IDENTIFIED SCOPE OF SERVICES, PLUS \$7,030 IN ADDITIONAL SERVICES, IF NEEDED, FOR A TOTAL AMOUNT NOT TO EXCEED \$77,330 AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE AGREEMENT**

WHEREAS, to assist with future well projects, staff has explored ways to streamline well equipping design to minimize costs as well as potential changes required during construction, and

WHEREAS, to accomplish this, a well equipping design template is being proposed that will assist staff and consultants on future well projects, and

WHEREAS, the well equipping design template is intended to standardize general, civil, architectural, structural, mechanical, electrical, and instrumentation features that the Water Services Division staff have identified as part of recent City well equipping projects, and

WHEREAS, in accordance with Modesto Municipal Code 8-3.204(a) Exceptions to Formal Bidding Requirements, this agreement is for professional services and, therefore, exempt from the bid requirement.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves an agreement with West Yost Associates, Sacramento, CA for Engineering Services for the development of a Well Equipping Design Template in the amount of \$70,300, for the identified scope of services, plus \$7,030 in additional services, if needed, for a total not to exceed amount of \$77,330.

BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to execute the agreement in a form approved by the City Attorney.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 25th day of January, 2022, by Councilmember Escutia-Braaton, who moved its adoption, which motion being duly seconded by Councilmember Kenoyer, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Escutia-Braaton, Kenoyer, Madrigal, Ricci, Wright, Zoslocki, Mayor Zwahlen

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST:   
DANA SANCHEZ, Interim City Clerk

(SEAL)

APPROVED AS TO FORM:

BY:   
JOSE M. SANCHEZ, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2022-048**

**RESOLUTION AMENDING THE FISCAL YEAR 2021/22 MULTI-YEAR PROGRAM BUDGET IN THE AMOUNT OF \$87,875 TO BE TRANSFERRED INTO THE PROJECT FROM WATER RESERVES TO FUND THE DEVELOPMENT OF A WELL EQUIPPING DESIGN TEMPLATE AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO IMPLEMENT THE PROVISIONS OF THE RESOLUTION**

WHEREAS, certain budgetary transactions are necessary in the amount of \$87,875, in order to fully fund the development of a Well Equipping Design Template, and

WHEREAS, the Fiscal Year 2021/22 Multi-Year Program Budget must be amended.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the amendment of the Fiscal Year 2021/22 Multi-Year Program Budget in the amount of \$87,875 to be transferred into the project from Water Reserves.

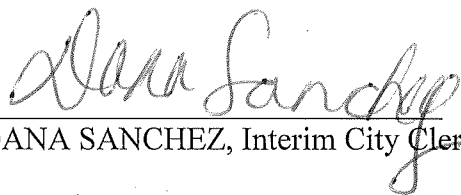
BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to implement the provisions of this resolution.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 25th day of January, 2022, by Councilmember Escutia-Braaton, who moved its adoption, which motion being duly seconded by Councilmember Kenoyer, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Escutia-Braaton, Kenoyer, Madrigal, Ricci, Wright, Zoslocki, Mayor Zwahlen

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST:   
DANA SANCHEZ, Interim City Clerk

(SEAL)

APPROVED AS TO FORM:

BY:   
JOSE M. SANCHEZ, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2022-049**

**RESOLUTION APPROVING AN ON-CALL AGREEMENT FOR  
CONSTRUCTION SERVICES WITH EWING CONSTRUCTION SERVICES,  
DAVIS, CA, FOR ONE YEAR WITH TWO ONE-YEAR EXTENSION OPTIONS,  
FOR AN ANNUAL COST NOT TO EXCEED \$100,000, AND A TOTAL COST  
NOT TO EXCEED \$300,000 OVER THREE YEARS, AND AUTHORIZING THE  
CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE AGREEMENT**

WHEREAS, Construction Services are vital in the successful bidding and construction of projects, and

WHEREAS, there are a number of Capital Improvement Program (CIP) projects that may require outside consultant services for efficient project delivery, and

WHEREAS, retaining an on-call consultant allows the Utilities Department to have accelerated and convenient access to specific construction services to resolve any project issues in a timely fashion., and

WHEREAS, in accordance with Modesto Municipal Code 8-3.204(a), Exceptions to Formal Bidding Requirements, this agreement for professional services is exempt from the bid requirement, and

WHEREAS, per Administrative Directive 3.1: Selection Procedures for Professional Consultants who Provide Architectural & Engineering Services for Capital Projects, the Director at his direction, may secure a candidate firm if it is in the best interest of the City.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves an On-Call Agreement for Construction Services with Ewing Construction Services, Davis, CA, for one year with two one-year extension options, for

an annual cost not to exceed \$100,000, and a total cost not to exceed \$300,000 over three years.


BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to execute the Agreement, in a form approved by the City Attorney.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 25th day of January, 2022, by Councilmember Wright, who moved its adoption, which motion being duly seconded by Councilmember Kenoyer, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Escutia-Braaton, Kenoyer, Madrigal, Ricci, Wright, Zoslocki, Mayor Zwahlen

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST:   
DANA SANCHEZ, Interim City Clerk

(SEAL)

APPROVED AS TO FORM:

BY:   
JOSE M. SANCHEZ, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2022-050**

**RESOLUTION APPROVING AN ON-CALL REAL PROPERTY CONSULTING SERVICES AGREEMENT WITH ASSOCIATED RIGHT OF WAY SERVICES, OF PLEASANT HILL, CA, FOR A TERM OF ONE YEAR WITH TWO ONE-YEAR EXTENSION OPTIONS, FOR AN ANNUAL COST NOT TO EXCEED \$100,000, AND A TOTAL COST NOT TO EXCEED \$300,000 OVER THREE YEARS, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE AGREEMENT**

WHEREAS, professional real property consulting services are needed for the preparation of easements, lease agreements, brokering services and appraisals for current and future projects, and

WHEREAS, there are a number of Capital Improvement Program (CIP) projects that may require outside consultant services for efficient project delivery, and

WHEREAS, retaining an on-call consultant allows the Utilities Department to have accelerated and convenient access to the necessary services required to resolve project issues in a timely fashion, and

WHEREAS, in accordance with Modesto Municipal Code 8-3.204(a), Exceptions to Formal Bidding Requirements, this agreement for professional services is exempt from the bid requirement, and

WHEREAS, per Administrative Directive 3.1: Selection Procedures for Professional Consultants who Provide Architectural & Engineering Services for Capital Projects, the Director at his direction, may secure a candidate firm if it is in the best interest of the City.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves an On-Call Real Property Consulting Services Agreement with Associated Right of Way Services, of Pleasant Hill, CA, for one year with two one-year

extension options, for an annual cost not to exceed \$100,000, and a total cost not to exceed \$300,000 over three years.

BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to execute the Agreement, in a form approved by the City Attorney.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 25th day of January, 2022, by Councilmember Wright, who moved its adoption, which motion being duly seconded by Councilmember Kenoyer, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Escutia-Braaton, Kenoyer, Madrigal, Ricci, Wright, Zoslocki, Mayor Zwahlen

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST:

  
DANA SANCHEZ, Interim City Clerk

(SEAL)

APPROVED AS TO FORM:

BY:

  
JOSE M. SANCHEZ, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2022-051**

**RESOLUTION ADOPTING A DIVERSITY, EQUITY, AND INCLUSION  
PROGRAM**

WHEREAS, the City of Modesto's Human Resources Department has taken a comprehensive look at various programs, and

WHEREAS, staff recommends bringing them all together under a single Diversity, Equity and Inclusion (DEI) Program with multiple components, and

WHEREAS, this approach represents the City of Modesto's commitment to fostering, cultivating, and preserving a culture of diversity, equity, and inclusion within the workplace and within the services and interactions with our community, and

WHEREAS, the program provides direction to all employees on what we believe, how we behave, and what is expected.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves adopting the Diversity, Equity, and Inclusion Program.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 25th day of January, 2022, by Councilmember Madrigal, who moved its adoption, which motion being duly seconded by Councilmember Escutia-Braaton, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Escutia-Braaton, Kenoyer, Madrigal, Ricci, Wright, Zoslocki, Mayor Zwahlen

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST:   
DANA SANCHEZ, Interim City Clerk

(SEAL)

APPROVED AS TO FORM:

BY:   
JOSE M. SANCHEZ, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2022-052**

**RESOLUTION ADOPTING THE CITY OF MODESTO EQUAL EMPLOYMENT  
OPPORTUNITY PLAN FOR FISCAL YEARS 2021-22 THROUGH 2026-27**

WHEREAS, a five-year Equal Employment Opportunity Plan for the City of Modesto was amended and adopted by Modesto City Council on September 9, 2014, by Resolution No. 2014-338, and

WHEREAS, City staff has updated the plan with new data and objectives for the next five years, and

WHEREAS, the Equal Opportunity Plan is provided to Council as a five-year blueprint for workforce objectives relative to ethnicity and gender. This report sets forth the guidelines to be used by the City to measure annual progress towards those objectives set for Fiscal Years 2021/2022 through 2026/2027, and

WHEREAS, the City is fully committed to the effective implementation of the Equal Opportunity Plan, and to continued progress toward the achievement of its objectives.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the City of Modesto Equal Opportunity Plan for Fiscal Years 2021/2022 through 2026/2027.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 25th day of January, 2022, by Councilmember Madrigal, who moved its adoption, which motion being duly seconded by Councilmember Escutia-Braaton, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Escutia-Braaton, Kenoyer, Madrigal, Ricci, Wright, Zoslocki, Mayor Zwahlen

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST:   
DANA SANCHEZ, Interim City Clerk

(SEAL)

APPROVED AS TO FORM:

BY:   
JOSE M. SANCHEZ, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2022-053**

**RESOLUTION ADOPTING THE CITY OF MODESTO LANGUAGE ACCESS  
PLAN**

WHEREAS, in accordance with Title VI of the Civil Rights Act of 1964, the Americans with Disabilities Act and the Bilingual Services Act, the Language Access Plan establishes guidelines for providing language accessible services to those that are Limited English Proficient (LEP), and

WHEREAS, it is the intent of this plan to establish guidelines and procedures to provide effective communication within the community, encourage broader engagement in public meetings and create comfortable access to services provided by the City, and

WHEREAS, it is the policy of the City of Modesto to provide meaningful, effective access for members of the public that identify as less than very well in English Proficiency, and

WHEREAS, it is the policy of the City of Modesto to commit to languages that meet a predetermined threshold according to applicable laws, regulations, and demographic data as identified in the Plan, and

WHEREAS, the City continues to search for new solutions to meet public communication needs including more efficient use of existing resources to help improve, and expand, language access.

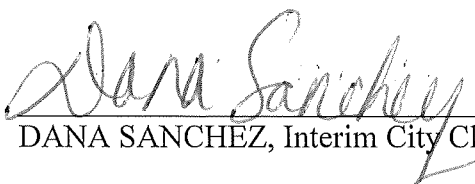
NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby adopts the Language Access Plan.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 25th day of January, 2022, by Councilmember Madrigal, who moved its adoption, which motion being duly seconded by Councilmember Escutia-Braaton, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Escutia-Braaton, Kenoyer, Madrigal, Ricci, Wright, Zoslocki, Mayor Zwahlen

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST:   
DANA SANCHEZ, Interim City Clerk

(SEAL)

APPROVED AS TO FORM:

BY:   
JOSE M. SANCHEZ, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2022-054**

**RESOLUTION APPROVING AN AMENDMENT TO THE EQUAL  
OPPORTUNITY/DISABILITY COMMISSION TO RETITLE TO THE EQUITY  
COMMISSION AND AMENDING ARTICLE II DUTIES**

WHEREAS, the Affirmative Action Commission of the City of Modesto was established pursuant to the provisions of the Affirmative Action Program established by Modesto City Council Resolution No. 87-237 on April 7, 1987, and

WHEREAS, with the passage of Proposition 209, the City reviewed its employment policies, affirmative action policies and other relevant policies and procedures and amended them as necessary to comply with Proposition 209, and

WHEREAS, as part of the compliance effort, the Commission retitled from the Affirmative Action Commission to Equal Opportunity and Disability Commission by Resolution No. 98-134, and

WHEREAS, with the creation of the Diversity, Equity, and Inclusion Program which includes Equal Opportunity and Disability accessibility, and

WHEREAS, City staff recommends retitling and repurposing the Equal Opportunity/Disability Commission to the Equity Commission and amending Article II Duties.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves amending the title of the Equal Opportunity/Disability Commission to the Equity Commission and amending Article II Duties to include matters related to equity and inclusion, equal opportunity, and disability related issues, and adopting amended bylaws for the Commission to reflect these changes.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 25th day of January, 2022, by Councilmember Madrigal, who moved its adoption, which motion being duly seconded by Councilmember Escutia-Braaton, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Escutia-Braaton, Kenoyer, Madrigal, Ricci, Wright, Zoslocki, Mayor Zwahlen

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST:   
DANA SANCHEZ, Interim City Clerk

(SEAL)

APPROVED AS TO FORM:

BY:   
JOSE M. SANCHEZ, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2022-055**

**RESOLUTION APPROVING AN EIGHTEEN (18) MONTH PARK RANGER PILOT PROGRAM TO HIRE FOUR (4) FULL TIME POLICE CADET II'S TO SERVE AS PARK RANGERS TO PATROL AND CONDUCT OUTREACH IN CITY PARKS, TRAILS AND OPEN SPACES, FOR A TOTAL AMOUNT NOT TO EXCEED \$623,708**

WHEREAS, the City of Modesto operates and maintains 76 parks within the city park system for the community to enjoy and recreate in; and

WHEREAS, for many years, community complaints, departmental reports, and police calls for service have identified consistent issues in city parks, open spaces, and trails within the city to include the following: vandalism, illegal camping and trespassing, drug use, dogs off leashes and failure to clean up after dogs, damage to natural habitat and delayed enforcement response times; and

WHEREAS, the City of Modesto strives to be an inviting and safe community with thriving neighborhoods. Ensuring city parks, open spaces, and trails are safe and attractive place for our citizens to enjoy helps achieve this vision; and

WHEREAS, to help achieve a sustained presence in our city parks, trails, and open spaces, the Modesto Police Department recommends implementing an eighteen (18) month Park Ranger pilot program; and

WHEREAS, the program would utilize four (4) full time cadets who would be assigned as Park Rangers for the duration of the pilot program; and

WHEREAS, the enforcement authority of the Park Rangers would be limited to the issuance of citations for violations of state law or any violation of the City of Modesto Municipal Code.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves an eighteen (18) month Park Ranger pilot program to hire four (4) full time police cadet II's to serve as park rangers to patrol and conduct outreach in city parks, trails and open spaces, in an amount not to exceed \$623,708.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 25th day of January, 2022, by Councilmember Ricci, who moved its adoption, which motion being duly seconded by Councilmember Zoslocki, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Escutia-Braaton, Madrigal, Ricci,  
Wright, Zoslocki, Mayor Zwahlen

NOES: Councilmembers: None

ABSENT: Councilmembers: Kenoyer

ATTEST:   
DANA SANCHEZ, Interim City Clerk

(SEAL)

APPROVED AS TO FORM:

BY:   
JOSE M. SANCHEZ, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2022-056**

**RESOLUTION AMENDING THE POSITION ALLOCATION FOR FISCAL  
YEAR 2021-22 AS ADOPTED IN THE OPERATING BUDGET**

WHEREAS, a Position Allocation for the City of Modesto was adopted by Modesto City Council on June 23, 2021, as part of the Annual Budget of the City of Modesto for Fiscal Year 2021-22, and

WHEREAS, classification studies are conducted to ensure that a classification system is equitable and consistent within an organization and that positions are correctly classified, and

WHEREAS, per Personnel Administrative Order 2.2-87-12, a classification study may be conducted in response to a reclassification request, to develop/revise a classification specification, or to assist in a reorganization, and

WHEREAS, classification studies were conducted by Human Resources to determine appropriate classifications, and

WHEREAS, position changes will be effective the first day of the pay period upon adoption, unless otherwise noted.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves amending the Position Allocation and the Fiscal Year 2021-22 Operating Budget for various departments as follows:

1. Allocate four (4) Police Cadet I/II positions in the Park Ranger Program Division (19225) of the Modesto Police Department

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 25th day of January, 2022, by Councilmember Ricci, who moved its adoption, which motion being duly seconded by Councilmember Zoslocki, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Escutia-Braaton, Madrigal, Ricci,  
Wright, Zoslocki, Mayor Zwahlen

NOES: Councilmembers: None

ABSENT: Councilmembers: Kenoyer

ATTEST:   
DANA SANCHEZ, Interim City Clerk

(SEAL)

APPROVED AS TO FORM:

BY:   
JOSE M. SANCHEZ, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2022-057**

**RESOLUTION APPROVING AMENDED SECTION 23 OF THE HUD POLICIES  
AND PROCEDURES MANUAL (SECTION 3 COMPLIANCE)**

WHEREAS, on January 13, 2022 Citizens' Housing and Community Development Committee approved amending Section 23 of the Housing and Urban Development Policies & Procedures Manual (Section 3 Compliance), and

WHEREAS, Section 3 is a provision of the Housing and Urban Development (HUD) Act of 1968 that is intended to foster local economic development, neighborhood economic improvement, and individual self-sufficiency, and

WHEREAS, the Section 3 program requires that recipients of certain HUD financial assistance provide job training, employment, and contracting opportunities for low- or very-low income residents in connection with projects and activities in their neighborhoods, and

WHEREAS, on August 24, 2021 HUD issued CPD Notice CPD-21-09, which updated the Section 3 requirements of the Housing and Urban Development Act of 1968, as amended by the Housing and Community Development Act of 1992, final rule requirements for applicable funding sources, and

WHEREAS, the regulation, provided by the Section 3 Final Rule, became effective on November 30, 2020 and is codified at 24 CFR part 75, and

WHEREAS, the regulation simplifies the Section 3 requirements and establishes that Section 3 requirements apply to housing rehabilitation, housing construction, and other public construction projects assisted under HUD programs that provide housing and

community development financial assistance when the total amount of assistance to the project exceeds a minimum funding threshold, and

WHEREAS, the Final Rule now includes Safe Harbor Benchmark Goals to assist in achieving compliance. Previously there were no set goals and only Good Faith Efforts were required and compliance was achieved by certifying that efforts were made to meet the requirement, and

WHEREAS, in addition, a new category for Section 3 has been added in the Final Rule, which is a Targeted Section 3 Worker, and

WHEREAS, a Targeted Section 3 Worker is differentiated from the Section 3 Worker by residing within a one-mile radius of the project site, and

WHEREAS, under the Final Rule, total labor hours, Section 3 labor hours, and Targeted Section 3 labor hours must all be tracked in order to calculate Safe Harbor Benchmark Goals and the City will be required to report such hours in accomplishment reports to HUD, and

WHEREAS, in the case Safe Harbor Benchmark Goals are not met acceptable outreach documentation must now be tracked to document efforts, and

WHEREAS, HUD Safe Harbor Benchmark Goals require 25% or more of total project labor hours be Section 3 Worker hours and 5% or more be Targeted Section 3 Worker hours, and

WHEREAS, federally funded projects receiving \$200K or more in funding will be subject to HUD annual reporting of the following: Total Labor Hours, Section 3 Labor Hours, and Targeted Section 3 Labor Hours, and

WHEREAS, in order to align with current program guidelines and replace older program policies, Section 23 (Section 3 Compliance) needs to be updated, and

WHEREAS, the updated Section 3 Compliance Policies & Procedures are included as **Attachment 2**, and

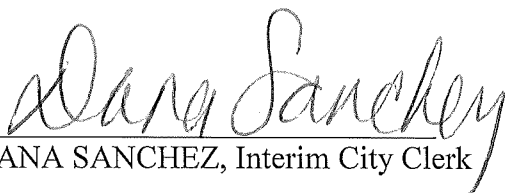
NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the amended Section 23 of the HUD Policies and Procedures Manual (Section 3 Compliance) on file with the City Clerk.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 1st day of February, 2022, by Councilmember Kenoyer, who moved its adoption, which motion being duly seconded by Councilmember Wright, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Escutia-Braaton, Kenoyer, Madrigal, Ricci, Wright, Zoslocki, Mayor Zwahlen

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST:   
DANA SANCHEZ, Interim City Clerk

(SEAL)

APPROVED AS TO FORM:

BY:   
JOSE M. SANCHEZ, City Attorney

# Section 3 Compliance Plan Policies & Procedures



**MODESTO**  
CALIFORNIA



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# Overview of Section 3 Requirements

## A. What is Section 3?

Section 3 is a provision of the Housing and Urban Development Act of 1968 (12.u.s.c. 1701u) that is regulated by the provisions of 24CFR 75. Section 3 regulations ensure that employment and other economic opportunities generated by certain HUD financial assistance shall, to the greatest extent feasible, and consistent with existing Federal, State, and local laws and regulation, be directed to low- and very low-income persons, particularly those who are recipients of government assistance for housing, and to business concerns which provide economic opportunities to low-and very low-income persons.

## B. Purpose of this Document

This plan outlines how the City of Modesto and its subrecipients, contractors and subcontractors will comply with HUD's Section 3 requirements. The City of Modesto will, to the greatest extent feasible, ensure that employment and other economic opportunities are directed to low-and very low-income persons (Section 3 workers and Targeted Section 3 workers) and to eligible businesses (Section 3 Businesses) and requires the same of its contractors.

The City of Modesto may amend its Section 3 Policies and Procedures document as necessary to ensure continued compliance with HUD's requirements and/or to reflect updated Section 3 guidance and outreach strategies.

## C. Applicability

For housing and community development financial assistance, this plan applies to housing rehabilitation, housing construction, and other public construction projects that exceed \$200,000 or more of housing and community development financial assistance from one or more HUD programs. Applicability is determined at the project level.

For projects funded with Lead and Hazard Control and Healthy Homes Programs, this plan applies to projects that exceed \$100,000.

This Plan also applies to projects that include multiple funding sources. Multiple funding source projects include projects that include public housing financial assistance, housing and community development financial assistance for single or multiple recipients, and the Lead Hazard Control and Healthy Homes Program.

Section 3 requirements do not apply to: 1) Material Supply Contracts - § 75.3(b), 2) Indian and Tribal Preference - §75.3(c), and 3) Other HUD assistance and other Federal assistance not subject to Section 3 §75.3 (d). However, for financial assistance that is not subject to Section 3, recipients are encouraged to consider ways to support the purpose of Section 3.



# Employment, Training, and Contracting Goals

## A. Safe Harbor Compliance

The City of Modesto will be considered to have complied with the Section 3 requirements and met safe harbor, if they certify that they followed the required prioritization of effort and met or exceeded the Section 3 benchmarks, absent evidence of the contrary.

Prior to the beginning of work, contractors and subcontractors will be required to certify that they will follow the required prioritization of effort for Section 3 workers, Targeted section 3 Workers, and Section 3 business concerns as outlined in section C. After completion of the project, on the Section 3 Cumulative Report, contractors and subcontractors will be required to certify that they followed the prioritization of effort requirements.

## B. Safe Harbor

The City of Modesto has established employment and training goals that subrecipients, contractors, and subcontractors should meet in order to comply with Section 3 requirements outlined in [24 CRF Part 75.19]. The safe harbor benchmark goals are as follows:

- 1) Twenty-Five (25) percent more of the total number of labor hours worked by all workers on a Section 3 project are Section 3 workers;

$$\text{Section 3 Labor Hours/Total Labor Hours} = 25\%$$

And

- 2) Five (5) percent more of the total number of labor hours worked by all workers on Section 3 project are Targeted Section 3 workers, as defined at 24 CRF Part 75.21

$$\text{Targeted Section 3 Labor Hours/Total Labor Hours} = 5\%$$

HUD establishes and updates Section 3 benchmarks for Section 3 workers and/or Targeted Section 3 workers through a document published in the Federal Register, not less frequently than once every three years. Given that the Section 3 benchmarks are subject to change every three years or sooner, The City of Modesto will review and update the Section 3 plan every 3 years, as needed.

It is the responsibility of the contractors to implement efforts to achieve Section 3 compliance. Any contractor that does not meet the Section 3 benchmark must demonstrate why meeting the benchmarks were not feasible. All contractors submitting



bids or proposals to the City of Modesto are required to certify that they will comply with the requirements of Section 3.

### **C. Certification of Prioritization of Effort for Employment, Training, and Contracting**

#### **Employment and Training**

Under the City of Modesto's Section 3 Program, contractors and subcontractors should make best efforts to provide employment and training opportunities to Section 3 workers in the priority order listed below:

Provide employment and training opportunities to Section 3 workers within the metropolitan area in which the project is located in the priority order listed below:

- 1) Section 3 workers residing within the service area or neighborhood of the project, and
- 2) Participants in YouthBuild programs.

Contractors and subcontractors will be required to certify that they will and have made best efforts to follow the prioritization of effort requirements prior to the beginning work and after work is completed.

#### **Contracting**

Under the City of Modesto's Section 3 Program, contractors and subcontractors must make their best efforts to award contracts and subcontracts to business concerns that provide economic opportunities to Section 3 workers in the following order or priority:

- 1) Business concerns that provide economic opportunities to Section 3 workers residing within the metropolitan area in which assistance is located in the following order or priority (where feasible):
  - a) Section 3 business concerns that provide economic opportunities to Section 3 workers residing within the service area or the neighborhood of the project; and
  - b) YouthBuild programs.

Contractors and subcontractors will be required to certify that they will and have made best efforts to follow the prioritization of effort requirements prior to the beginning of work and after work is completed.



## Section 3 Eligibility and Certifications

Individuals and businesses that meet Section 3 criteria may seek Section 3 preference from the City of Modesto or its contractors/subcontractors for training, employment, or contracting opportunities generated by housing and community development financial assistance. To qualify as a Section 3 worker, Targeted Section 3 Worker or a Section 3 business concern, each must self-certify that they meet the applicable criteria.

Businesses who misrepresent themselves as Section 3 business concerns and report false information to the City of Modesto may have their contracts terminated as default and be barred from ongoing and future considerations for contracting opportunities.

### A. Section 3 Worker and Targeted Section 3 Worker Certification

A Section 3 worker seeking certification shall submit self-certification documents to the recipient contractor or subcontractor, that the person is a Section 3 worker or Targeted Section 3 worker as defined in 24 CFR Part 75. For the purposes of Section 3 worker eligibility, the City of Modesto will use individual income rather than family/household income to determine eligibility. The income limits will be determined annually using the guidelines published at <https://www.huduser.org/portal/il.html>.

Persons seeking the Section 3 worker preference, Section shall demonstrate that it meets one or more of the following criteria currently or when hired within the past five years, as documented:

- 1) A low or very low-income resident (the worker's income for the previous or annualized calendar year is below the income limit established by HUD); or
- 2) Employed by a Section 3 business concern; or
- 3) A YouthBuild participant

Persons seeking the Targeted Section 3 worker preference shall demonstrate that it meets one or more of the following criteria:

- 1) Employed by a Section 3 business concern or
- 2) Currently meets or when hired met at least one of the following categories as documented within the past five years:
  - a) Living within the service area or the neighborhood of the project, as defined in 24 CFR Part 75.5; or
  - b) A Youthbuild participant.



Section 3 workers and Targeted Section 3 workers who are seeking preferences in training and employment must submit the Section 3 Worker and Targeted Section 3 Worker Certification Form and Employee Affirmation Appendix C. The certification procedure will consist of the following:

## **Projects Involving Multiple Sources of Funding**

In cases where Section 3 covered projects include multiple sources of funds, including public housing financial assistance and housing community development assistance, Public Housing Authority (PHA) must follow the definition of Targeted Section 3 worker and priorities as outlined in subpart B of Part 75. For housing and community development financial assistance, the City of Modesto may follow either subpart B of Part 75 to maintain consistency in reporting.

In cases where Section 3 covered projects include multiple housing and development funding sources (financial assistance) from single or multiple recipients, the City of Modesto will follow subpart C of Part 75.

### **B. Section 3 Business Concern Certification**

The City of Modesto, encourages contractors and subcontractors to make best efforts to award contracts and subcontracts to Section 3 business concerns.

Businesses that believe they meet the Section 3 Business requirements can may self-register in the HUD Business registry, at <http://www.hud.gov/Sec3Biz>. Businesses may seek Section 3 Business Concern preference by demonstrating that it meets one or more of the following criteria:

- 1) At least 51 percent of the business is owned and controlled by low- or very low-income persons; or
- 2) At least 51 percent of the business is owned and controlled by current public housing residents or residents who currently live in Section 8-assisted housing; or
- 3) Over 75 percent of the labor hours performed for the business over the prior three-month period are performed by Section 3 workers.

Businesses that seek Section 3 preferences shall certify, or demonstrate to the City of Modesto, contractors or subcontractors, that they meet the definitions provided in the above. Businesses may demonstrate eligibility by submitting the Section 3 Certification for Business Concerns Seeking Section 3 Preference in Contracting and Demonstration of Capability and Business Concern Affirmation, attached as APPENDIX D.

Section 3 Business Concern Certification Forms must be submitted at the time of bid/proposal. If the City of Modesto previously approved the business concern to be



Section 3 certified, then the certification can be submitted along as the bid, as long as the form is submitted within the prescribed expiration date. The Section 3 Business Concern Certification Form will expire after 6 months. Establishing a 6 month certification eligibility period allows the City of Modesto the ability to assess contractor performance to ensure the business is striving to meet the required goals.

## **Assisting Contractors with Achieving Section 3 Goals**

In an effort to assist contractors with meeting or exceeding the Section 3 goals, the City of Modesto will do the following:

- 1) Share Section 3 Plan with contractors and subcontractors and explain policies and procedures
- 2) Require contractor to sign the Section 3 Plan at pre-construction conference
- 3) Review Section 3 benchmarks and prioritization of effort with contractors and subcontractors to ensure that the goals are understood. It is not intended for contractors and subcontractors to terminate existing employees, but to make every effort feasible to meet Section 3 benchmark goals by utilizing existing qualified workforce and by considering qualified eligible Section 3 workers and Targeted Section 3 workers (per the prioritization of effort outlined in Employment, Training, and Contracting Goals) before any other person, when hiring additional employees is needed to complete proposed work to be performed.
- 4) At the time of bid, require the contractor to present list, of the number of total labor hours, Section 3 worker labor hours, and Targeted Section 3 worker labor hours expected to be generated from the initial contract and a list of projected number of available positions, to include job descriptions and wage rates.
- 5) Maintain a local Section 3 worker/Targeted Section 3 worker database and provide the contractor with a list of interested and qualified Section 3 workers and Targeted Section 3 workers and contact information.
- 6) Inform contractors about the HUD Section 3 Opportunity Portal.  
<https://hudapps.hud.gov/OpportunityPortal/>
- 7) Require contractors to notify City of Modesto staff of their interest regarding employment of Section 3 workers prior to hiring.
- 8) Encourage local business to register on the HUD Business Registry and direct contractors to the HUD Section 3 Business Registry.  
<https://www.hud.gov.section3businessregistry>



- 9) Leverage the City of Modesto's communication outlets (social media, website, etc.) to effectively communicate employment and contracting opportunities that arise.
- 10) Require contractors to submit a list of core employees (including administrative, clerical, planning and other positions pertinent to the construction trades) at the time of the contract award.

## **Section 3 Outreach**

### **A. Outreach Efforts for Employment and Training**

In order to educate and inform workers and contractors, the City of Modesto's Staff will be prepared to provide training and technical assistance on a regular basis per program guidelines. When training opportunities are available, contractors and subcontractors should, to the greatest extent feasible:

- 1) Notify City of Modesto staff when training opportunities are available
- 2) Provide information/handouts about Section 3 training opportunities to potential Section 3 workers and Targeted Section 3 workers
- 3) Conduct an annual training for Section 3 workers and Section 3 businesses

Contractors and subcontractors should employ several active strategies to notify Section 3 workers and Targeted Section 3 workers of Section 3 job opportunities, including:

- 1) Clearly indicating Section 3 eligibility on all job postings with the following statement "This job is a Section 3 eligible job opportunity. We encourage applications from individuals that are low income and/or live in Public Housing and/or receive a Section 8 voucher";
- 2) Including the Section 3 Worker and Targeted Section 3 Worker Self-Certification Form in all job postings
- 3) Working with City of Modesto staff to connect Section 3 workers and Targeted Section 3 workers in the City of Modesto's database with opportunities and/or utilize the Section 3 Opportunity Portal to find qualified candidates
- 4) Establishing a current list of Section 3 eligible applicants
- 5) Contracting local community organizations and provide them with job posting for Section 3 eligible applicants; and
- 6) Coordinating a programmatic ad campaign, which results in widespread job posting across diverse ad networks including:

- a) Advertising job opportunities via social media, including LinkedIn and Facebook;
- b) Advertising job opportunities via flyer distributions and mass mailing and posting ad in common areas of housing developments and all public housing management offices
- c) Contacting resident councils, resident management corporations, and neighborhood community organizations to request their assistance in notifying residents of available training and employment opportunities.

## **B. Outreach Efforts for Contracting**

When contracting opportunities arise in connection with a HUD program, the City of Modesto will employ in whole or in part the following strategies to notify Section 3 Business Concerns of Section 3 contracting opportunities, including but not limited to:

- 1) Adding Section 3 language to all RFP's, procurement documents, bid offerings and contracts.
- 2) Coordinating mandatory pre-bid meetings to inform Section 3 Business Concerns of upcoming contracting opportunities. City of Modesto staff will participate in these meetings to explain and answer questions related to Section 3 policy.
- 3) Advertising contracting opportunities in local community papers and notices that provide general information about the work to be contracted and where to obtain additional information
- 4) Providing written notice of contracting opportunities to all known Section 3 Business Concern. The written notice will be provided in sufficient time to enable business concerns the opportunity to respond to bid invitations.
- 5) Coordinating with the prime contractor to publicize contracting opportunities for small businesses.
- 6) Coordinating with the City of Modesto's Business/Economic Development Department and all other business assistance agencies and contractor associations to inform them of contracting opportunities and request their assistance in identifying Section 3 business concerns. Could include local community development organizations, business development agencies (Chamber of Commerce), and minority contracting associations.
- 7) Connecting Section 3 business concerns with resources to support business development to assist in obtaining contracting opportunities (e.g., bonding

and insurance assistance, etc.). Contractors will also be encouraged to collaborate with the City of Modesto as subcontract opportunities arise in an effort to notify eligible Section 3 business concerns about the contracting opportunities.

## **Section 3 Contracting Policy and Procedure**

The City of Modesto will incorporate Section 3 in its existing Procurement Policy and adopt a Section 3 Contracting Policy and Procedure to be included in all procurements generated for use with HUD funding. This policy and procedure contain requirements for making efforts to award contracts to Section 3 Business Concerns.

All contractors/businesses seeking Section 3 preference must, before submitting bids/proposals to the City of Modesto be required to complete certifications, as appropriate. Such certifications shall be adequately supported with appropriate documentation as referenced in the Section 3 Business Concern Certification Form.

## **Section 3 Provision/Contract Language**

The City of Modesto will include standard Section 3 language in all of its contracts to ensure compliance with regulations in 24 CFR Part 75. The City of Modesto will take appropriate actions upon finding that a contractor is in violation of 24 CFR and does not knowingly contract with any contractor that has been found in violation of the Section 3 regulations. On a periodic basis the City of Modesto will audit contractors for compliance with the minimum Section 3 requirements outlined in the Section 3 Plan.

In addition, Contractors and subrecipients are required to include language in all Section 3 covered contracts or agreement for subcontractors to meet the requirements of 24 CFR Part 75.19.

For businesses, noncompliance with HUD's regulations in 24 CFR part 75 may result in sanctions, termination of this contract for default, and debarment or suspension from future HUD assisted contracts.



# Reporting Requirements

For Section 3 covered contracts, contractors must submit the Section 3 Performance and Summary to City of Modesto staff on a monthly basis, and annual reporting requirement set forth in that form's instructions.

## A. Monthly Reporting

- 1) Contractors are required to submit monthly activity reports to designated City of Modesto staff periodically throughout the project and with each invoice request.

## B. Annual Reporting

- 1) Once a project is completed, contractors must submit a final Section 3 cumulative report for the project entirety.
- 2) Upon the completion of a project, The City of Modesto designated staff will conduct a final review of the project's overall performance and compliance.
- 3) The designated City of Modesto staff will submit Section 3 data into IDIS to HUD at annual reporting period (July 1)

## C. Reporting on Projects with Multiple Funding Sources

- 1) For Section 3 projects that include public housing financial assistance and housing and community development financial assistance, The City of Modesto and the Housing Authority will report on the projects as a whole and will identify the multiple associated recipients.
- 2) For projects assisted with funding from multiple sources of housing and community development assistance that exceeds the threshold of \$200,000 and \$100,000 for Lead Hazard Control and Healthy Homes Programs (LHCHH), the City of Modesto will follow subpart C of part 75 and will report to the applicable HUD program office, as prescribed by HUD. Note: LHCHH assistance is not included in calculating whether the assistance exceeds the \$200,000 threshold. HUD public housing financial assistance and HUD housing and community development financial assistance is not included in calculating whether the assistance exceeds the LHCHH \$100,000 threshold. Refer to Chart in Appendix B.

## Internal Section 3 Compliant Procedure

In an effort to resolve complaints generated due to non-compliance through an internal process, The City of Modesto encourages submittal of such complaints to City of Modesto Staff as follows:

- 1) Complaints of non-compliance should be filed in writing and must contain the name of the complainant and brief description of the alleged violation of 24 CFR Part 75.
- 2) Complaints must be filed within **180 calendar days** after the complainant becomes aware of the alleged violation.
- 3) An investigation will be conducted if complaint is found to be valid. The City of Modesto will conduct an informal, but thorough investigation affording all interested parties, if any an opportunity to submit testimony and/or evidence pertinent to the complaint.
- 4) The City of Modesto will provide written documentation detailing the findings of the investigation. The City of Modesto will review the findings for accuracy and completeness before it is released to complainants. The findings will be made available no later than **60 days** after the filing of complaint. If complainants wish to have their concerns considered outside of the City of Modesto a complaint may be filed with:

The Hud program office responsible for the public housing financial assistance or the Section 3 project, or to the local HUD field office. These offices can be found through the HUD website, [www.hud.gov/](http://www.hud.gov/).

Complainants may be eligible to bring complaints under other federal laws. The U.S Equal Employment Opportunity Commission (EEOC) is responsible for enforcing federal laws that make it illegal to discriminate against a job applicant or an employee because of the person's race, color, religion, sex (including pregnancy), national origin, age (40 or older), disability or genetic information (medical history or predisposition to disease). For more information about complainants' rights, please contact EEOC at: [www.EEOC.gov](http://www.EEOC.gov).

The department of labor Office of Federal Contract Compliance Programs (OFCCP) enforces, for the benefit of job seekers and wage earners, the contractual promise of affirmative action and equal employment opportunity required of those who do business with the Federal government. More information about the services they provide can be obtained at: <http://www.dol.gov/ofccp/>.



# Appendices

## Appendix A: Definitions

The term HUD, Public Housing Agency (PHA) are defined in 24 CFR part 5.

The following definitions also apply to 24 CFR Part 75 HUD's Economic Opportunities for Low- and Very Low-Income Persons:

1937 Act means the United States Housing Act of 1937, 42 U.S.C 1437 et seq. activities related to Public Housing

Contractor means any entity entering into a contract with:

- (1) A recipient to perform work in connection with the expenditure of public housing financial assistance or for work in connection with a Section 3 project; or
- (2) A subrecipient for work in connection with a Section 3 project.

Labor hours means the number of paid hours worked by persons on a Section 3 project or by persons employed with funds that include public housing financial assistance.

Low-income person means a person as defined in Section 3(b)(2) of the 1937 Act, at or below 80% AMI. Note that Section 3 worker eligibility uses individual income rather than family/ household income.

Material supply contracts means contracts for the purchase of products and materials, including, but not limited to, lumber, drywall, wiring, concrete, pipes, toilets, sinks, carpets, and office supplies.

Professional services mean non-construction services that require an advanced degree or professional licensing, including, but not limited to, contracts for legal services, financial consulting, accounting services, environmental assessment, architectural services, and civil engineering services.

Public housing financial assistance as defined in 24 CFR Part 75.3(a)(1).

Public housing project is defined in 24 CFR 905.108.

Recipient means any entity that receives directly from HUD public housing financial assistance or housing and community development assistance that funds Section 3 projects, including, but not limited to, any State, local government, instrumentality, PHA, or other public agency, public or private nonprofit organization.

Section 3 means Section 3 of the Housing and Urban Development Act of 1968, as amended (12 U.S.C.1701u)



Section 3 business concern means:

- (1) A business concern meeting at least one of the following criteria, documented within the last six-month period:
  - (i) It is at least 51 percent owned and controlled by low- or very low-income persons;
  - (ii) Over 75 percent of the labor hours performed for the business over the prior three-month period are performed by Section 3 workers; or
  - (iii) It is a business at least 51 percent owned and controlled by current public housing residents or residents who currently live in Section 8- assisted housing.
- (2) The status of a Section 3 business concern shall not be negatively affected by a prior arrest or conviction of its owner(s) or employees.
- (3) Nothing in this part shall be construed to require the contracting or subcontracting of a Section 3 business concern. Section 3 business concerns are not exempt from meeting the specifications of the contract.

Section 3 project means a project defined in 24CFR Part 75.3(a)(2)

Section 3 worker means:

- (1) Any worker who currently fits or when hired within the past five years fit at least one of the following categories, as documented:
  - (i) The worker's income for the previous or annualized calendar year is below the income limit established by HUD.
  - (ii) The worker is employed by a Section 3 business concern.
  - (iii) The worker is a YouthBuild participant.
- (2) The status of a Section 3 worker shall not be negatively affected prior arrest or conviction.
- (3) Nothing in this part shall be construed to require the employment of someone who meets definition of a Section 3 worker. Section 3 workers are not exempt from meeting the qualifications of the position to be filled.

Section 8-assisted housing refers to housing receiving project-based rental assistance or tenant-based assistance under Section 8 of the 1937 Act.

Service area or the neighborhood of the project means an area within one mile of the Section 3 project or, if fewer than 5,000 people live within one mile of a Section 3 project, within a circle centered on Section 3 project that is sufficient to encompass a population of 5,000 people according to the most recent U.S. Census.



Small PHA means a public housing authority that manages or operates fewer than 250 public housing units.

Subcontractor means any entity that has a contract with a contractor to undertake a portion of the contractor's obligation to perform work in connection with the expenditure of public housing financial assistance or for a Section 3 project.

Subrecipient has the meaning provided in the applicable program regulations or in 24 CFR 200.93

Targeted Section 3 worker has meanings provided in 24 CFR Part 75.11, 75.21, or 75.29, and does not exclude an individual that has a prior arrest or conviction.

Very low-income person means the definition for this term set forth in section 3(b)(2) of the 1937 Act (at or below 50% AMI).

YouthBuild programs refers to YouthBuild programs receiving assistance under the Workforce Innovation and Opportunity Act (29 U.S.C. 3226).



## Appendix B: Multiple Funding Sources- Chart

Type of Financial Assistance	Definitions *Targeted Section 3 Worker	Thresholds	Prioritization	Reporting
<b>Public Housing and Housing Community Development</b>	<p><b>PHA-</b> must follow subpart B of Part 75</p> <p><b>HCD-</b> may follow subpart B or C of Part 75</p>	<p>None</p> <p>*Any amount of PH assistance triggers Section 3</p>	<p><b>PHA-</b> must follow subpart B of Part 75</p> <p><b>HCD-</b> may follow subpart B or C of Part 75</p>	<p><b>PHA-</b> must follow subpart B of Part 75</p> <p><b>HCD-</b> may follow subpart B or C of Part 75</p> <p>Both- Must report on project as a whole and identify the multiple associated recipients</p>
<p><b>Multiple Sources of Housing and Community Development</b> (single or multiple recipients)</p>	<p>Must follow subpart C of Part 75</p>	<p>Exceed \$200,000 for Section 3 projects</p> <p>*LHCHHP exceeds \$100,000</p>	<p>Must follow subpart C of Part 75</p>	<p>Must follow subpart C of Part 75</p> <p>Must report on project as a whole and identify the multiple associated recipients</p> <p>Must report to the applicable HUD program office, as prescribed by HUD</p>

# Appendix C: Section 3 Worker and Targeted Section 3 Worker Certification Form and Employee Affirmation

## Section 3 Worker and Targeted Section 3 Worker Self-Certification

The purpose of HUD's Section 3 program is to provide employment, training, and contracting opportunities to low-income individuals, particularly those who are recipients of government assistance for housing or other public assistance programs. **Your response is voluntary, confidential, and has no effect on your employment.**

### Eligibility for Section 3 Worker or Targeted section 3 Worker Status

A Section 3 worker seeking certification shall self-certify and submit this form to the recipient contractor or subcontractor, that the person is a Section 3 worker or Target Section 3 Worker as defined in 24 CFR Part 75.

**Instructions:** Enter/select the appropriate information to confirm your Section 3 worker or Targeted Section 3 Worker status.

Employee Name: \_\_\_\_\_

1. Are you a resident of public housing or a Housing Choice Voucher Holder (Section 8)?

YES                       NO

2. Are you a resident of the city of Modesto?

YES                       NO

3. In the field below, select the amount of individual income you believe you earn on an annual basis

<input type="checkbox"/> Less than \$10,000	<input type="checkbox"/> \$30,001 - \$40,000	<input type="checkbox"/> More than \$60,000
<input type="checkbox"/> \$10,001 - \$20,000	<input type="checkbox"/> \$40,001 - \$50,000	
<input type="checkbox"/> \$20,001 - \$30,000	<input type="checkbox"/> \$50,001 - \$60,000	

Select from ONE of the following two options below:

I qualify as a:

Section 3 Worker (as defined on page 6)

Targeted Section 3 Worker (as defined on pages 6)



## Employee Affirmation

I affirm that the above statements (on frontside of this form) are true, complete, and correct to the best of my knowledge and belief. I hereby certify, under penalty of law, that the following information is correct to the best of my knowledge.

Employee Address: \_\_\_\_\_

Print Name: \_\_\_\_\_ Date Hired: \_\_\_\_\_

Signature: \_\_\_\_\_ Date: \_\_\_\_\_

### FOR ADMINISTRATIVE USE ONLY

Is the employee a Section 3 worker based upon their self-certification?  YES  NO

Is the employee a Targeted Section 3 worker based upon their self-certification?  YES  NO

Was this an applicant who was hired as a result of the Section 3 project?  YES  NO

If Yes, what is the name of the company? \_\_\_\_\_

What was the date of hire? \_\_\_\_\_

**EMPLOYERS MUST RETAIN THIS FORM IN THEIR SECTION 3 COMPLIANCE FILE FOR FIVE YEARS.**



# Appendix D: Certification for Business Concerns Seeking Section 3 Preference in Contracting and Demonstration of Capability and Business Concern Affirmation

## CERTIFICATION FOR BUSINESS CONCERNS SEEKING SECTION 3 PREFERENCE IN CONTRACTING AND DEMONSTRATION OF CAPABILITY

**Instructions:** Enter the following information and select the criteria that applies to certify your business' Section 3 Business Concern status

### Business Information

Name of Business \_\_\_\_\_

Address of Business \_\_\_\_\_

Name of Business Owner \_\_\_\_\_

Phone Number of Business Owner \_\_\_\_\_

Email Address of Business Owner \_\_\_\_\_

### Preferred Contact Information

Same as above

Name of Preferred Contact \_\_\_\_\_

Phone Number of Preferred Contact \_\_\_\_\_

### Type of Business (select from the following options):

Corporation       Partnership       Sole Proprietorship       Joint Venture

### Select from One of the following three options below that applies:

At least 51 percent of the business is owned and controlled by low- or very low-income persons.

At least 51 percent of the business is owned and controlled by current public housing residents or residents who currently live in Section 8- assisted housing.

Over 75 percent of the labor hours performed for the business over the prior three-month period are performed by Section 3 workers (Refer to definition on page 7).



## Business Concern Affirmation

I affirm that the above statements (on the frontside of this form) are true, complete, and correct to the best of my knowledge and belief. I understand that businesses who misrepresent themselves as Section 3 business concerns and report false information to the City of Modesto may have their contracts terminated as default and be barred from ongoing and future consideration for contracting opportunities. I hereby certify, under penalty of law, that the following information is correct to the best of my knowledge.

Print Name: \_\_\_\_\_

Signature: \_\_\_\_\_ Date: \_\_\_\_\_

\*Certification expires within six months of the date of signature

Information regarding Section 3 Business Concerns can be found at [24 CFR 75.5](#)

### **FOR ADMINISTRATIVE USE ONLY**

Is the business a Section 3 business concern based upon their certification?

YES  NO

**EMPLOYERS MUST RETAIN THIS FORM IN THEIR SECTION 3 COMPLIANCE FILE FOR FIVE YEARS.**





**MODESTO CITY COUNCIL  
RESOLUTION NO. 2022-058**

**RESOLUTION APPROVING AN EMERGENCY SOLUTIONS GRANT CARES ACT (ESG-CV2) TO CENTER FOR HUMAN SERVICES FOR THE OPERATION OF THE NAVIGATION CENTER – LOW BARRIER YOUTH SHELTER LOCATED AT 2008 W. BRIGGSMORE AVE., MODESTO, CA 95350 IN AN AMOUNT NOT TO EXCEED \$50,304 TO PREVENT, MITIGATE, AND RESPOND TO THE SPREAD OF COVID-19 AS WELL AS \$5,000 IN ACTIVITY DELIVERY AND AUTHORIZING THE CITY MANAGER OR HIS DESIGNEE TO EXECUTE ANY DOCUMENTS AND/OR AGREEMENTS**

WHEREAS, the City of Modesto is an entitlement community under three U.S. Department of Housing and Urban Development (HUD) programs within its Office of Community Planning and Development (CPD), and

WHEREAS, as an entitlement community, the City annually receives entitlement funds from the Community Development Block Grant, Emergency Solutions Grant, and HOME Investment Partnerships Program (HOME) programs, and

WHEREAS, on March 27, 2020, the United States Congress passed the Coronavirus Aid, Relief, and Economic Security Act (CARES Act – H.R. 748), and

WHEREAS, through the first round of funding, the City of Modesto was awarded \$1,118,269 in CDBG-CV1 and \$567,410 in ESG-CV1, and

WHEREAS, this funding was programmed by 2019-2020 Annual Action Plan Amendment #3 approved by City Council on April 28, 2020 by Resolution 2020-206, and

WHEREAS, on June 9, 2020 HUD announced the second round of CARES Act Funding through which the City was awarded an additional \$3,360,962 in Emergency Solutions Grants – Coronavirus (ESG-CV2) and this funding was programmed by 2019-

2020 Annual Action Plan Amendment #4 approved by City Council on October 27, 2020 by Resolution 2020-448, and

WHEREAS, the City's current 2020-2025 Consolidated Plan identifies homelessness and housing as the highest priorities, and

WHEREAS, addressing homelessness in the midst of a pandemic takes a global approach with many community partners and the City departments coming together to create a holistic approach to keeping the most vulnerable in the community safe from COVID-19 and to continue the effort to assist these individuals on a path that brings them closer to a life off the streets and part of our local community, and

WHEREAS, the City has been working with its partners in allocating CARES Act resources to address this priority while responding to the COVID-19 threat to the community, and

WHEREAS, Center for Human Services operates a Low Barrier Youth Shelter at the Youth Navigation Center, and

WHEREAS, the shelter provides 24 beds for youth 18 to 24 years of age who are experiencing homelessness, and

WHEREAS, Center for Human Services Low Barrier Youth Shelter will provide hotel/motel vouchers for youth who may be experiencing symptoms of COVID-19 and awaiting results, or youth who are COVID positive who need to quarantine to prevent the spread of COVID-19 within the shelter, and

WHEREAS, the youth shelter will open on weekends to increase services to youth, helping mitigate the spread of COVID-19, and

WHEREAS, ESG-CV2 funds will be used for the operation of Center for Human Services Low Barrier Youth Shelter located in the Navigation Center to help mitigate the spread of COVID-19 by providing hotel/motel vouchers, and offering additional operating hours on the weekends to expand services to youth in need.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approving an Emergency Solutions Grant CARES Act (ESG-CV2) to Center for Human Services for the operation of the Navigation Center – Low Barrier Youth Shelter located at 2008 W. Briggsmore Ave., Modesto, CA 95350 in an amount not to exceed \$50,304 to prevent, mitigate, and respond to the spread of COVID-19 as well as \$5,000 in activity delivery.

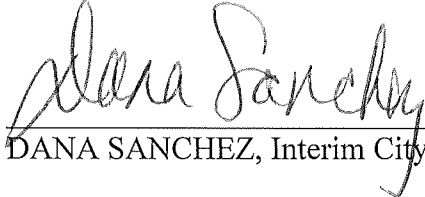
BE IT FURTHER RESOLVED; authorize the City Manager or his designee to execute any documents and/or agreements with such changes as determined by the City Attorney.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 1st day of February, 2022, by Councilmember Kenoyer, who moved its adoption, which motion being duly seconded by Councilmember Wright, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Escutia-Braaton, Kenoyer, Madrigal, Ricci, Wright, Zoslocki, Mayor Zwahlen

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST:   
DANA SANCHEZ, Interim City Clerk

(SEAL)

APPROVED AS TO FORM:

BY:   
JOSE M. SANCHEZ, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2022-059**

**RESOLUTION APPROVING THE FIRST AMENDMENT TO THE CENTER FOR HUMAN SERVICES ESG CARES ACT SUBRECIPIENT AGREEMENT FOR YOUTH STREET OUTREACH BY INCREASING THE CONTRACT AMOUNT FROM \$40,000 TO \$56,893, EXTENDING THE TERM OF THE AGREEMENT FROM ENDING JUNE 30, 2022 TO SEPTEMBER 30, 2022, AND AUTHORIZING THE CITY MANAGER OR HIS DESIGNEE TO EXECUTE THE AMENDMENT**

WHEREAS, the City of Modesto is an entitlement community under three U.S. Department of Housing and Urban Development (HUD) programs within its Office of Community Planning and Development (CPD), and

WHEREAS, as an entitlement community, the City annually receives entitlement funds from the Community Development Block Grant, Emergency Solutions Grant, and HOME Investment Partnerships Program (HOME) programs, and

WHEREAS, on March 27, 2020, the United States Congress passed the Coronavirus Aid, Relief, and Economic Security Act (CARES Act – H.R. 748), and

WHEREAS, through the first round of funding, the City of Modesto was awarded \$1,118,269 in CDBG-CV1 and \$567,410 in ESG-CV1, and

WHEREAS, this funding was programmed by 2019-2020 Annual Action Plan Amendment #3 approved by City Council on April 28, 2020 by Resolution 2020-206, and

WHEREAS, on June 9, 2020 HUD announced the second round of CARES Act Funding through which the City was awarded an additional \$3,360,962 in Emergency Solutions Grants – Coronavirus (ESG-CV2) and this funding was programmed by 2019-2020 Annual Action Plan Amendment #4 approved by City Council on October 27, 2020 by Resolution 2020-448, and

WHEREAS, the City's current 2020-2025 Consolidated Plan identifies homelessness and housing as the highest priorities, and

WHEREAS, CDBG-CV, ESG and ESG-CV eligible projects. ESG-CV funding is intended for non-profit organizations that would prepare for, respond to, or prevent COVID-19 in areas such as emergency shelter operations, street outreach, homeless prevention, and rapid rehousing, and

WHEREAS, Center for Human Services applied and was awarded \$40,000 under this NOFA for Youth Street Outreach services to assist homeless youth impacted by COVID-19, and

WHEREAS, On May 11, 2021 the City Council, by Resolution No. 2021-178, approved the City of Modesto Program Year 2021-2022 Annual Action Plan. The 2021-2022 Annual Action Plan included funding recommendations under both CDBG and ESG for public services which allows the funding of eligible public services projects, and

WHEREAS, the City has been working with its partners in allocating CARES Act resources to address this priority while responding to the COVID-19 threat to the community, and

WHEREAS, with the pandemic still being prevalent and the need for outreach and engagement services on the rise, the City reached out to providers that were awarded COVID-19 related contracts, and

WHEREAS, Center for Human Services – Youth Street Outreach program expressed the need for additional funding to continue to provide services to the youth residents of the City in an effort to prepare, prevent and respond to COVID-19 crisis, and

WHEREAS, Center for Human Services has been providing outreach, engagement, navigation and case management services since July 2018 to unaccompanied Modesto youth, ages 12-24 years of age who are experiencing homelessness and are unsheltered, and

WHEREAS, COVID-19 continues to affect young people in the community, Center for Human Service’s youth focused outreach team continues to facilitate outreach and find youth in the community who may be living on the streets or in unsafe locations, and

WHEREAS, ESG-CV2 funds will be used to pay off the outreach vehicle, enabling the outreach team to find youth experiencing homelessness within the community, engage them, and quickly move youth into safe and sanitary shelter, mitigating the spread of COVID-19 and allowing for coordination of health services and access to vaccinations.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approving the First Amendment to the Center for Human Services Emergency Solutions Grant CARES Act (ESG-CV2) agreement for youth street outreach by increasing the contract amount from \$40,000 to \$56,893 and extending the term of the agreement from ending June 30, 2022 to September 30, 2022.

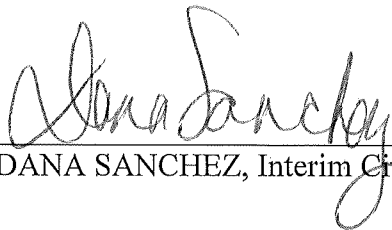
BE IT FURTHER RESOLVED; authorize the City Manager or his designee to execute the amendment, in a form approved by the City Attorney.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 1st day of February, 2022, by Councilmember Kenoyer, who moved its adoption, which motion being duly seconded by Councilmember Wright, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Escutia-Braaton, Kenoyer, Madrigal, Ricci, Wright, Zoslocki, Mayor Zwahlen


NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST:   
DANA SANCHEZ, Interim City Clerk

(SEAL)

APPROVED AS TO FORM:

BY:   
JOSE M. SANCHEZ, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2022-060**

**RESOLUTION APPROVING THE FIRST AMENDMENT TO HAVEN  
WOMEN'S CENTER OF STANISLAUS ESG CARES ACT SUBRECIPIENT  
AGREEMENT, INCREASING THE CONTRACT AMOUNT FROM \$36,000 TO  
\$98,000, EXTENDING THE TERM OF THE AGREEMENT FROM ENDING  
JUNE 30, 2022 TO SEPTEMBER 30, 2022 AS WELL AS INCREASING THE  
ACTIVITY DELIVERY FROM \$5,000 TO \$7,000 AND AUTHORIZING THE  
CITY MANAGER OR HIS DESIGNEE TO EXECUTE ANY DOCUMENTS  
AND/OR AMENDMENTS**

WHEREAS, the City of Modesto is an entitlement community under three U.S. Department of Housing and Urban Development (HUD) programs within its Office of Community Planning and Development (CPD), and

WHEREAS, as an entitlement community, the City annually receives entitlement funds from the Community Development Block Grant, Emergency Solutions Grant, and HOME Investment Partnerships Program (HOME) programs, and

WHEREAS, on March 27, 2020, the United States Congress passed the Coronavirus Aid, Relief, and Economic Security Act (CARES Act – H.R. 748), and

WHEREAS, through the first round of funding, the City of Modesto was awarded \$1,118,269 in CDBG-CV1 and \$567,410 in ESG-CV1, and

WHEREAS, this funding was programmed by 2019-2020 Annual Action Plan Amendment #3 approved by City Council on April 28, 2020 by Resolution 2020-206, and

WHEREAS, on June 9, 2020 HUD announced the second round of CARES Act Funding through which the City was awarded an additional \$3,360,962 in Emergency Solutions Grants – Coronavirus (ESG-CV2) and this funding was programmed by 2019-

2020 Annual Action Plan Amendment #4 approved by City Council on October 27, 2020 by Resolution 2020-448, and

WHEREAS, the City's current 2020-2025 Consolidated Plan identifies homelessness and housing as the highest priorities, and

WHEREAS, CDBG-CV, ESG and ESG-CV eligible projects. ESG-CV funding is intended for non-profit organizations that would prepare for, respond to, or prevent COVID-19 in areas such as emergency shelter operations, street outreach, homeless prevention, and rapid rehousing, and

WHEREAS, Haven Women's Center of Stanislaus applied and was awarded \$36,000 under this NOFA for Shelter Operations to assist households impacted by COVID-19, and

WHEREAS, On May 11, 2021 the City Council, by Resolution No. 2021-178, approved the City of Modesto Program Year 2021-2022 Annual Action Plan. The 2021-2022 Annual Action Plan included funding recommendations under both CDBG and ESG for public services which allows the funding of eligible public services projects, and

WHEREAS, the City has been working with its partners in allocating CARES Act resources to address this priority while responding to the COVID-19 threat to the community, and

WHEREAS, With the pandemic still being prevalent and the need for shelter continuing, the City reached out to providers who were awarded COVID-19 related contracts for shelter services, and

WHEREAS, Haven expressed the need for additional funding to continue to provide services to the residents of the City in an effort to prepare, prevent and respond to the COVID-19 crisis, and

WHEREAS, Haven Women's Center has been providing quality supportive services, emergency shelter and advocacy to victims of domestic violence, sexual assault and human trafficking for over 40 years and operates the only confidential domestic violence shelter in Stanislaus County, and

WHEREAS, Haven's services include 24-hour crisis intervention and safety planning, peer counseling, legal advocacy, and support groups for adults and children affected by trauma, and

WHEREAS, ESG-CV2 funds will be used to cover staffing costs for the operations of the shelter allowing Haven to provide additional supportive services and mitigating the spread of COVID-19.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approving the First Amendment to Haven Women's Center of Stanislaus ESG CARES Act subrecipient agreement, increasing the contract amount from \$36,000 to \$98,000 and extending the term of the agreement from ending June 30, 2022 to September 30, 2022, as well as increasing the activity delivery from \$5,000 to \$7,000.


BE IT FURTHER RESOLVED that the City Manager or his designee is hereby authorized to execute any documents and/or amendments with such changes as determined 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 February, 2022, by Councilmember Kenoyer, who moved its adoption, which motion being duly seconded by Councilmember Wright, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Escutia-Braaton, Kenoyer, Madrigal, Ricci, Wright, Zoslocki, Mayor Zwahlen

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST:   
DANA SANCHEZ, Interim City Clerk

(SEAL)

APPROVED AS TO FORM:

BY:   
JOSE M. SANCHEZ, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2022-061**

**RESOLUTION APPROVING THE SECOND AMENDMENT TO DOWNTOWN STREETS INC ESG CARES ACT PROGRAM SUBRECIPIENT AGREEMENT INCREASING THE CONTRACT AMOUNT FROM \$450,000 TO \$900,000, EXTENDING THE TERM OF THE AGREEMENT FROM ENDING JUNE 30, 2022, TO SEPTEMBER 30, 2022, AND AUTHORIZING THE CITY MANAGER OR HIS DESIGNEE TO EXECUTE THE AGREEMENTS**

WHEREAS, the City of Modesto is an entitlement community under three U.S. Department of Housing and Urban Development (HUD) programs within its Office of Community Planning and Development (CPD), and

WHEREAS, as an entitlement community, the City annually receives entitlement funds from the Community Development Block Grant, Emergency Solutions Grant, and HOME Investment Partnerships Program (HOME) programs, and

WHEREAS, on March 27, 2020, the United States Congress passed the Coronavirus Aid, Relief, and Economic Security Act (CARES Act – H.R. 748), and

WHEREAS, through the first round of funding, the City of Modesto was awarded \$1,118,269 in CDBG-CV1 and \$567,410 in ESG-CV1, and

WHEREAS, this funding was programmed by 2019-2020 Annual Action Plan Amendment #3 approved by City Council on April 28, 2020 by Resolution 2020-206, and

WHEREAS, on June 9, 2020 HUD announced the second round of CARES Act Funding through which the City was awarded an additional \$3,360,962 in Emergency Solutions Grants – Coronavirus (ESG-CV2) and on September 11, 2020 HUD announced a third round of Cares Act Funding through which City will receive an additional \$1,267,503 in Community Development Block Grant – Coronavirus (CDBG-CV3), and

WHEREAS, On October 27, 2020, the City Council, by Resolution No. 2020-453, ESG CV-2 grant award contract with the Downtown Streets Team in the amount not to exceed \$450,000 plus activity delivery costs for the expansion of the shelter job training program, and

WHEREAS, due to COVID-19 and the economic downturn, it is even harder for those to rebuild the Downtown Streets Team has provided work readiness training, case management, and employment services to all members, and

WHEREAS, Downtown Streets Team has been working in the City of Modesto since January 2019, and started with a team of 25, and

WHEREAS, January 2021, the City was able to establish an additional new team of 25 members as part of a City initiative Camp2Home, and

WHEREAS, Downtown Streets Team has developed an individual centric curriculum designed to meet individuals where they are and assist each individual to a place of self-sufficiency while develop skills in identifying goals and barriers, financial literacy, and housing readiness, and

WHEREAS, the initial contract covered operational costs for the Camp2Home 25 team member team through June 30, 2022, and

WHEREAS, the City of Modesto proposes to amend the original contract to include both 25 members teams and increasing the award amount by \$450,000, for a total contract amount of \$900,000, and

WHEREAS, increase will allow Downtown Streets to continue to operate both 25-member teams through September 30, 2022.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the Second Amendment to Downtown Streets Inc ESG CARES Act Program Subrecipient Agreement increasing the contract amount from \$450,000 to \$900,000, and extending the term of the agreement from ending June 30, 2022, to September 30, 2022.

BE IT FURTHER RESOLVED that Council of the City of Modesto hereby authorizes the City Manager or his designee to execute any documents and/or agreements with such changes as determined 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 February, 2022, by Councilmember Kenoyer, who moved its adoption, which motion being duly seconded by Councilmember Wright, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Escutia-Braaton, Kenoyer, Madrigal, Ricci, Wright, Zoslocki, Mayor Zwahlen

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST:   
DANA SANCHEZ, Interim City Clerk

(SEAL)

APPROVED AS TO FORM:

BY:   
JOSE M. SANCHEZ, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2022-062**

**RESOLUTION APPROVING THE AGREEMENT WITH MR. MICHAEL BALDWIN SR. CONSULTANTS LLC TO PROVIDE CULTURAL RELATIONS AND COMMUNITY BUILDING COACHING FOR A ONE-YEAR AGREEMENT WITH TWO, ONE-YEAR EXTENSION OPTIONS FOR AN ANNUAL COST NOT TO EXCEED \$98,500 AND A TOTAL AMOUNT NOT TO EXCEED \$295,500 OVER THREE YEARS, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE AGREEMENT**

WHEREAS, building and maintaining community trust is a foundational principle to effective policing anywhere, and is a key priority for the Modesto Police Department, and

WHEREAS, the Modesto Police Department not only understands the importance of community engagement and developing trusting relationships with all segments of our community, and

WHEREAS, in August 2020, the City entered into an agreement with a local consultant Michael Baldwin Sr of Michael Baldwin Sr Consulting LLC to facilitate a pilot coaching series on Cultural Relations and Community Building in an effort to continue strengthening and restoring relationships in the community, and

WHEREAS, due to Mr. Baldwin's lived experience and unique perspective, the Modesto Police Department desires to enters into a consulting contract with Mr. Baldwin, to facilitate two, eleven-hour session Cultural Relations and Community Building Coaching Series courses per year of the agreement, and

WHEREAS, the Modesto Police Department desires to contract with Mr. Baldwin for up to 200 hours of additional consulting regarding early crime prevention, diversion programs, re-integration of incarcerated community members, and cultural relations and community building issues, and

WHEREAS, funding for this purchase will from the Modesto Police Department's 2021 Edward Byrne Memorial Justice Assistance Grant (BJAG) and Supplemental Law Enforcement Services Fund (SLESF) in year one, and

WHEREAS, should the extension option be exercised, years two and three funding will come from the Modesto Police Department's General Fund training budget, and

WHEREAS, Modesto Municipal Code Section 8-3.203 generally requires all purchases, which meet or exceed \$50,000 for material, equipment or contractual services to be formally bid, and

WHEREAS, exceptions to the formal bidding process are granted in MMC 8-3.204(a) "as they are providing professional services," and

WHEREAS, therefore, this purchase qualifies for exemption from the formal bidding process.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves a purchasing agreement between the City of Modesto and Michael Baldwin Sr. Consultants LLC.

BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to execute the agreement, in a form approved by the City Attorney.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 1st day of February, 2022, by Councilmember Kenoyer, who moved its adoption, which motion being duly seconded by Councilmember Wright, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Escutia-Braaton, Kenoyer, Madrigal, Ricci, Wright, Zoslocki, Mayor Zwahlen


NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST:   
DANA SANCHEZ, Interim City Clerk

(SEAL)

APPROVED AS TO FORM:

BY:   
JOSE M. SANCHEZ, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2022-063**

**RESOLUTION APPROVING THE AGREEMENT WITH SPATIALITICS LLC TO PROVIDE ACCESS TO GEO-ENABLED SOFTWARE (GEOSHIELD) FOR A THREE-YEAR AGREEMENT WITH TWO, ONE-YEAR EXTENSION OPTIONS FOR AN ANNUAL COST NOT TO EXCEED \$73,500, AND A TOTAL AMOUNT NOT TO EXCEED \$357,000 OVER FIVE YEARS, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE AGREEMENT**

WHEREAS, in February 2017, the Modesto Police Department entered into an agreement with CyberTech Systems and Software, Inc to provide the real-time crime dashboard and infrastructure for RTCC (RFP 1617-04, RESO No 2017-52), and

WHEREAS, CyberTech’s executive management decided to launch Spatialitics LLC as a separate entity to manage their product development and subscriptions, and

WHEREAS, Spatialitics LLC is a wholly owned subsidiary of CyberTech, and

WHEREAS, funding for this purchase will be from the Modesto Police Department’s General Fund operating budget for each year of the contract as has been the case for the prior contract, and

WHEREAS, the increase for the current fiscal year will be absorbed by the department operation budget, and upon approval, the line item for this contract will be increased by \$19,500 in each subsequent fiscal year, and

WHEREAS, Modesto Municipal Code Section 8-3.203 generally requires all purchases, which meet or exceed \$50,000 for material, equipment or contractual services to be formally bid.

WHEREAS, exceptions to the formal bidding process are granted in MMC 8-3.204(c) “provides where the Purchasing Manager, in his or her discretion, can determine

that calling for bids on a competitive basis as set forth in Section 8-3.203 is undesirable due to exigent circumstances,” and

WHEREAS, therefore, this purchase qualifies for exemption from the formal bidding process.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves a purchasing agreement between the City of Modesto and Spatialitics LLC.

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 February, 2022, by Councilmember Kenoyer, who moved its adoption, which motion being duly seconded by Councilmember Wright, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Escutia-Braaton, Kenoyer, Madrigal, Ricci, Wright, Zoslocki, Mayor Zwahlen

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST:   
DANA SANCHEZ, Interim City Clerk

(SEAL)

APPROVED AS TO FORM:

BY:   
JOSE M. SANCHEZ, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2022-064**

**RESOLUTION APPROVING THE AWARD OF BID AND AGREEMENT FOR FIRE SAFETY SYSTEM SERVICES TO THE BGR GROUP, SANTA CLARA, CA FOR A TWO-YEAR AGREEMENT WITH THREE ONE-YEAR EXTENSION OPTIONS, FOR AN ANNUAL ESTIMATED COST FOR THE FIRST YEAR OF \$292,370 AND NOT TO EXCEED AMOUNT OF \$1,024,091 OVER FIVE YEARS, AND AUTHORIZING THE DIRECTOR OF FINANCE, OR HER DESIGNEE, TO ADD NEW SITE ADDITIONS, REMOVALS, OR SUBSTANTIVE SERVICE CHANGES WITHOUT EXCEEDING THE ESTIMATED ANNUAL COST OF \$1,024,091 AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE AGREEMENT**

WHEREAS, the City of Modesto, Public Works Department, Building Administration and Maintenance Division is responsible for maintaining facilities within the City of Modesto which includes the fire systems within those facilities and

WHEREAS, there has not been a city-wide agreement for fire system services which included the inspection, testing and maintenance of these systems and

WHEREAS, through the issuance of a Request for Bid (RFB), the Building Administration and Maintenance Division will be able to better manage the Fire Safety Systems within the City of Modesto under a consolidated agreement rather than several different vendors handling different buildings and there will be the additional value of reduced costs through having a city-wide agreement and

WHEREAS, the City Manager authorized the Purchasing Manager to issue formal RFB for Fire Safety System Services and on October 5, 2021, the Purchasing Division issued RFB No. 2021-75 for Fire Safety Systems Services under multiple category codes<sup>1</sup>

WHEREAS, prospective bidders were notified online and via email of the bid opportunity and eighteen companies chose to download the RFB document and

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<sup>1</sup> 93609- Alarm Equipment Maintenance/Repair (Fire, Etc.) 99005- Alarm Services 34016- Fire Alarm Systems, Power Sirens, and Controls

WHEREAS, on November 2, 2021, bids were formally opened by the City Clerk and broadcast via Microsoft Teams Livestream<sup>2</sup> and one vendor responded with a formal bid; no local vendors responded and

WHEREAS, after contacting several bid holders, the Purchasing Division found that vendors declined to submit bids as they did not meet the bid requirement for the State Contractor's Business License stated in the bid documents and

WHEREAS, based on providing an overall responsive and responsible bid and the research conducted to evaluate the single bid response, staff recommends the award of bid to The BGR Group, Santa Clara, CA and

WHEREAS, Modesto Municipal Code Section 8-3.203 generally requires all purchases, which meet or exceed \$50,000 for material, equipment or contractual services to follow formal bid procedures; an award of bid and agreement for City-wide fire service system services to The BGR Group, Santa Clara, CA, conforms to the Modesto Municipal Code because the City complied with the formal bid procedures and The BGR Group was the lowest responsive and responsible bidder.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the award of bid and agreement with The BGR Group, Santa Clara, CA for fire safety system services for an annual estimated cost for the first year of \$292,370 and a total amount not to exceed \$1,024,091 with any new site additions, removals, or substantive service changes without exceeding the estimated annual cost of \$1,024,091 to be authorized by the Director of Finance or her designee.

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<sup>2</sup> Staff implemented a virtual bid opening process in an effort to slow the spread of COVID-19.

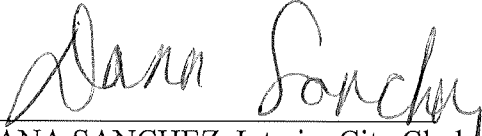
BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to execute the agreement, in a form approved by the City Attorney.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 1st day of February, 2022, by Councilmember Kenoyer, who moved its adoption, which motion being duly seconded by Councilmember Wright, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Escutia-Braaton, Kenoyer, Madrigal, Ricci,  
Wright, Zoslocki, Mayor Zwahlen

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST:   
DANA SANCHEZ, Interim City Clerk

(SEAL)

APPROVED AS TO FORM:

BY:   
JOSE M. SANCHEZ, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2022-065**

**RESOLUTION APPROVING APPLICATIONS TO THE CALIFORNIA DEPARTMENT OF RESOURCES, RECYCLING AND RECOVERY (CALRECYCLE) FOR SENATE BILL (SB 1383) LOCAL ASSISTANCE GRANT PROGRAMS, ACCEPTING PAYMENT, AMENDING THE ANNUAL BUDGET, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE ALL RELATED DOCUMENTS**

WHEREAS, pursuant to Public Resources Code § 48690 the Department of Resources Recycling and Recovery (CalRecycle), formerly known as the California Integrated Waste Management Board, has established the SB 1383 Local Assistance Grant Program to make payments to qualifying jurisdictions for implementation of the SB 1383 regulations adopted by CalRecycle pursuant to Chapter 395, Statutes of 2016 Programs; and

WHEREAS, in furtherance of this authority CalRecycle is required to establish procedures governing the administration of the SB 1383 Local Assistance Grant Program; and

WHEREAS, CalRecycle's procedures for administering the SB 1383 Local Assistance Grant Program require, among other things, an applicant's governing body to declare by resolution certain authorizations related to the administration of the SB 1383 Local Assistance Grant Program.

NOW, THEREFORE, BE IT RESOLVED that the Council of the City of Modesto authorizes the submittal of a SB 1383 Local Assistance Grant Program application to CalRecycle.

BE IT FURTHER RESOLVED that the City Manager or his designee, is hereby authorized and empowered to execute in the name of the City of Modesto all documents,

including but not limited to, applications, agreements, annual reports including expenditure reports and amendments necessary to secure said payments to support our implementation of the SB 1383 regulations adopted by CalRecycle pursuant to Chapter 395, Statutes of 2016.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 1st day of February, 2022, by Councilmember Kenoyer, who moved its adoption, which motion being duly seconded by Councilmember Wright, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Escutia-Braaton, Kenoyer, Madrigal, Ricci, Wright, Zoslocki, Mayor Zwahlen

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST:   
DANA SANCHEZ, Interim City Clerk

(SEAL)

APPROVED AS TO FORM:

BY:   
JOSE M. SANCHEZ, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2022-066**

**RESOLUTION APPROVING APPLICATIONS TO THE CALIFORNIA  
DEPARTMENT OF RESOURCES, RECYCLING AND RECOVERY  
(CALRECYCLE) FOR SENATE BILL (SB1383) GRANT PROGRAMS,  
ACCEPTING PAYMENT, AMENDING THE ANNUAL BUDGET, AND  
AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE  
ALL RELATED DOCUMENTS**

WHEREAS, pursuant to Public Resources Code § 48690 the Department of Resources Recycling and Recovery (CalRecycle), formerly known as the California Integrated Waste Management Board, has established the SB1383 Grant Program to make payments to qualifying jurisdictions for implementation of the SB1383 regulations adopted by CalRecycle pursuant to Chapter 395, Statutes of 2016 programs, and

WHEREAS, in furtherance of this authority CalRecycle is required to establish procedures governing the administration of the SB 1383 Grant Program, and

WHEREAS, CalRecycle's procedures for administering the SB1383 Grant Program require, among other things, an applicant's governing body to declare by resolution certain authorizations related to the administration of the SB1383 Grant Program.

NOW, THEREFORE, BE IT RESOLVED that the Council of the City of Modesto authorizes the submittal of a SB1383 Grant Program application to CalRecycle.

BE IT FURTHER RESOLVED that the City Manager or his designee, is hereby authorized and empowered to execute in the name of the City of Modesto all documents, including but not limited to, applications, agreements, annual reports including expenditure reports and amendments necessary to secure said payments to support our

implementation of the SB1383 regulations adopted by CalRecycle pursuant to Chapter 395, Statutes of 2016.

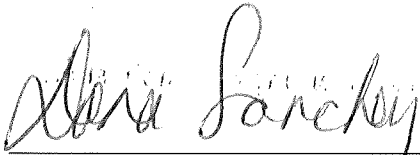
BE IT FURTHER RESOLVED that this authorization is effective until rescinded by the Modesto City Council.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 1st day of February, 2022, by Councilmember Kenoyer, who moved its adoption, which motion being duly seconded by Councilmember Wright, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Escutia-Braaton, Kenoyer, Madrigal, Ricci, Wright, Zoslocki, Mayor Zwahlen

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST:   
DANA SANCHEZ, Interim City Clerk

(SEAL)

APPROVED AS TO FORM:

BY:   
JOSE M. SANCHEZ, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2022-067**

**RESOLUTION APPROVING A SECOND AMENDMENT TO THE AGREEMENT WITH DAVID KEITH TODD CONSULTING ENGINEERS, INC., DBA TODD GROUNDWATER, FOR THE PREPARATION OF A GROUNDWATER SUSTAINABILITY PLAN AND RELATED TECHNICAL STUDIES FOR THE MODESTO SUBBASIN IN THE AMOUNT OF \$220,015 FOR THE IDENTIFIED SCOPE OF SERVICES, FOR AN AMENDED TOTAL NOT TO EXCEED \$2,689,311 AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE AMENDMENT**

WHEREAS, on August 14, 2018, per Resolution No. 2018-340, Council approved an agreement with David Keith Todd Consulting Engineers, Inc., DBA Todd Groundwater for the preparation of a Groundwater Sustainability Plan and Related Technical Studies for the GSP Modesto Subbasin Project, in an amount not to exceed \$1,469,296, and

WHEREAS, on August 14, 2019 the City was appointed lead applicant on behalf of the Stanislaus and Tuolumne Rivers Groundwater Basin Association Groundwater Sustainability Agency (STRGBA GSA), and

WHEREAS, on June 9, 2020, per Resolution No. 2020-256, Council approved a first amendment to agreement with David Keith Todd Consulting Engineers, Inc., DBA Todd Groundwater for the preparation of a Groundwater Sustainability Plan and Related Technical Studies for the GSP Modesto Subbasin Project, in the amount of \$1,000,000, and

WHEREAS, the Groundwater Sustainability Act requires GSAs to submit annual reports to the Department of Water Resources each April following adoption of a groundwater sustainability plan, and

WHEREAS, the Modesto Subbasin's first annual report is due April 1, 2022, and will cover the period from October 1, 2015 through September 30, 2021, and

WHEREAS, the total cost of the Annual Report and Groundwater Model Update will be \$220,015, and

WHEREAS, the STRGBA GSA members have agreed to enter into a cost sharing agreement to provide funding for the costs associated with the preparation of the Annual Report and Groundwater Model Update for the Modesto Subbasin.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves a Second Amendment to the Agreement with David Keith Todd Consulting Engineers, Inc., DBA Todd Groundwater, in the amount of \$220,015 for the identified scope of services, for a revised total amount not to exceed \$2,689,311.

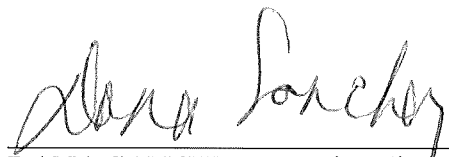
BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to execute the amendment in a form approved by the City Attorney.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 1st day of February, 2022, by Councilmember Kenoyer, who moved its adoption, which motion being duly seconded by Councilmember Wright, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Escutia-Braaton, Kenoyer, Madrigal, Ricci, Wright, Zoslocki, Mayor Zwahlen

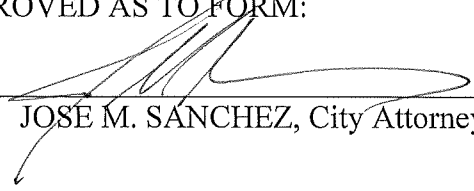
NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST:   
DANA SANCHEZ, Interim City Clerk

(SEAL)

APPROVED AS TO FORM:

BY:   
JOSE M. SANCHEZ, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2022-068**

**RESOLUTION AMENDING THE FISCAL YEAR 2021/22 MULTI-YEAR PROGRAM BUDGET IN THE AMOUNT OF \$70,000 TO BE TRANSFERRED INTO THE PROJECT (101131) FROM WATER FUND RESERVES IN ORDER TO FULLY FUND THE GSP MODESTO SUB-BASIN PROJECT AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE TO IMPLEMENT THE PROVISIONS OF THIS RESOLUTION**

WHEREAS, certain budgetary transactions are necessary in the amount of \$70,000, in order to fully fund the GSP Modesto Sub-Basin Project, and

WHEREAS, the Fiscal Year 2021/22 Multi-Year Program Budget must be amended.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the amendment of the Fiscal Year 2021/22 Multi-Year Program Budget in the amount of \$70,000.

BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to implement the provisions of this resolution.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 1st day of February, 2022, by Councilmember Kenoyer, who moved its adoption, which motion being duly seconded by Councilmember Wright, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Escutia-Braaton, Kenoyer, Madrigal, Ricci, Wright, Zoslocki, Mayor Zwahlen


NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST:   
DANA SANCHEZ, Interim City Clerk

(SEAL)

APPROVED AS TO FORM:

BY:   
JOSE M. SANCHEZ, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2022-069**

**RESOLUTION ACCEPTING THE HEADWORKS, DRYDEN BOX AND  
INFLUENT FLUME IMPROVEMENTS PROJECT AS COMPLETE,  
AUTHORIZING ALL NECESSARY STEPS TO FILE WITH THE COUNTY  
RECORDER, RELEASING SECURITIES, AND RELEASING PAYMENTS  
TOTALING \$18,637,897 TO C. OVERAA & CO., OF RICHMOND,  
CALIFORNIA**

WHEREAS, the 2007 Wastewater Treatment Master Plan identified key deficiencies in the wastewater treatment system, and

WHEREAS, this project addressed deficiencies in the primary treatment facilities at the Sutter Avenue Treatment Plant (Sutter Plant), and

WHEREAS, all of the City's wastewater flows are screened for debris and grit removal, and is essential to maintain the efficiency and effectiveness of the entire wastewater treatment process, and

WHEREAS, most of the City's domestic wastewater (from the River and West Trunks) and Cannery Segregation Line enter the Dryden Box prior to entering the Sutter Plant for treatment, and

WHEREAS, this structure was severely corroded and needed to be replaced, and

WHEREAS, the Improvement Project upgraded the Headworks facility and Pumping Plant No.3, and made hydraulic improvements to the Influent Flumes, and completed construction of a new Dryden Box (in-ground concrete structure), and,

WHEREAS, this project delivers reliability and capacity improvements to the City's wastewater system, and

WHEREAS, on November 4, 2014, by Resolution No. 2014-464, Council approved an agreement with Carollo Engineers, Inc., (Carollo) for preparation of a

Preliminary Design Report (PDR), which served as the basis of design for the Project,  
and

WHEREAS, the PDR evaluated improvements necessary, determined the most economical and beneficial approach, and evaluated different alternatives to address the existing deficiencies at the Sutter Plant, and

WHEREAS, On March 1, 2016 by Resolution No. 2016-76, Council approved an agreement with Carollo Engineers, Inc., (Carollo) for Final Design Services for the Headworks, Dryden Box and Influent Flume Improvements Project, and

WHEREAS, on October 2, 2018 by Resolution No. 2018-437, Council approved an agreement with Carollo Engineers, Inc. (Carollo) for Engineering Support During Construction Services for the Headworks, Dryden Box and Influent Flume Improvements Project, and

WHEREAS, On October 2, 2018 by Resolution No. 2018-438, Council approved an agreement with West Yost Associates, Inc. (West Yost) for Construction Management and Inspection Services for the Headworks, Dryden Box and Influent Flume Improvements Project, and

WHEREAS, bids were advertised on March 27, 2018, and were publicly opened on May 15, 2018, pursuant to Modesto Municipal Code Section 8-3.403 and Charter Section 1307, and C. Overaa & Co., of Richmond, CA, was the apparent lowest responsible and responsive bidder, and

WHEREAS, on October 2, 2018 by Resolution No. 2018-436, Council awarded a contract to C. Overaa & Co., of Richmond, CA, for the construction of the Headworks, Dryden Box and Influent Flume Improvements project in the amount of \$16,972,000, and

WHEREAS, the contractor received the Notice to Proceed with a first working day of November 5, 2018, and all contract work was completed by April 2, 2021, and

WHEREAS, the total project costs were \$24,282,740 which included design, construction, and construction administration costs. The total project amount originally budgeted was \$24,734,996 which included \$18,669,200 for the construction contract and contingency with C. Overaa & Co., and

WHEREAS, the City's "Change Order Approval Policy" enacted by Council Resolution No. 94-443 on July 19, 1994, and updated by Resolution No. 2019-326 on July 9, 2019, a contract that exceeds \$10,000,000 allows Directors Authority only up to six percent (6%) (\$1,357,760), and

WHEREAS, while the contract change order budget of ten percent (10%) was noted on the Fiscal Impact table on the October 2, 2018 Agenda Report for award, (reflected as the contingency amount) a resolution authorizing this amount for change orders was not submitted for approval, and

WHEREAS, on August 5, 2020 by Resolution No. 2020-325, staff requested authorization to increase the contract change order authority to 10% (\$1,697,200) due to the highly corrosive nature of hydrogen sulfate gas present in sanitary sewer facilities and resulting in unforeseen conditions that are not exposed until sewer flows are diverted, or bypassed to other sections of the treatment plant, and

WHEREAS, there were forty-four orders on this project with an overall increase of \$1,665,897, and

WHEREAS, by accepting this project as complete, the City officially accepts the improvements made and authorizes the Notice of Completion to be filed.


NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Headworks, Dryden Box and Influent Flume Improvements project is hereby accepted as complete from contractor, C. Overaa & Co., of Richmond, CA, and that the City Clerk is authorized to complete all necessary steps to file the appropriate notices and documents with the County Recorder, release securities, and authorize payments totaling \$18,637,897.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 1st day of February, 2022, by Councilmember Kenoyer, who moved its adoption, which motion being duly seconded by Councilmember Wright, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Escutia-Braaton, Kenoyer, Madrigal, Ricci, Wright, Zoslocki, Mayor Zwahlen

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST:   
DANA SANCHEZ, Interim City Clerk

(SEAL)

APPROVED AS TO FORM:

BY:   
JOSE M. SANCHEZ, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2022-070**

**RESOLUTION APPROVING THE SUBMISSION OF A GRANT APPLICATION FOR THE CALIFORNIA VIOLENCE INTERVENTION AND PREVENTION GRANT PROGRAM TO THE BOARD OF STATE AND COMMUNITY CORRECTIONS FOR UP TO \$6 MILLION IN GRANT FUNDS WITH UP TO \$6 MILLION IN AN IN-KIND AND/OR CASH MATCH FOR A MAXIMUM COMMITMENT OF \$12 MILLION, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE AND SUBMIT ALL DOCUMENTS WHICH MAY BE NECESSARY FOR THE COMPLETION OF THE GRANT APPLICATION**

WHEREAS, in 2019, the California Violence Intervention and Prevention (CalVIP) Grant Program was codified as the Break the Cycle of Violence Act (Chapter 735, Statutes of 2019) and established the authority and duties of the Board of State and Community Corrections to administer CalVIP, and

WHEREAS, eligible applicants are cities that are “disproportionately impacted by violence” and community-based organizations that serve the residents of those cities, and

WHEREAS, Modesto qualifies under the third criterion of the grant in that it otherwise demonstrated a unique and compelling need for additional resources to address the impact of homicides, shootings, and aggravated assaults in the applicant’s community, and

WHEREAS, a “unique and compelling need,” as defined by the CalVIP Executive Subcommittee is that the city experienced five (5) or more homicides during two (2) or more of the three (3) years prior to the grant application, and

WHEREAS, the Police Department, in coordination with the Parks, Recreation and Neighborhoods Department the City Manager’s Office seek approval to apply for the CalVIP Grant Program to improve public health and safety in Modesto by supporting effective violence reduction initiatives, and

WHEREAS, the City will work to support, expand and replicate evidence-based violence reduction initiatives that shall be primarily focused on providing violence intervention services to a small segment of the population that has been identified as having the highest risk of perpetrating or being victimized by violence in the near future, and

WHEREAS, the City departments are in the initial stages of identifying partner agencies for this effort and have begun discussions with those identified as critical to the success of the program that will be put in place locally, and

WHEREAS, if awarded funding by the Board of State and Community Corrections, City staff will return to Council to accept the terms of the grant and the plan for how the terms will be met.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the submission of a grant application for the California Violence Intervention and Prevention Grant Program to the Board of State and Community Corrections for up to \$6 million in grant funds with up to \$6 million in an in-kind and/or cash match for a maximum commitment of \$12 million.


BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized 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 1st day of February, 2022, by Councilmember Wright, who moved its adoption, which motion being duly seconded by Councilmember Zoslocki, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Escutia-Braaton, Kenoyer, Madrigal, Ricci, Wright, Zoslocki, Mayor Zwahlen

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST:   
DANA SANCHEZ, Interim City Clerk

(SEAL)

APPROVED AS TO FORM:

BY:   
JOSE M. SANCHEZ, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2022-071**

**RESOLUTION APPROVING THE APPOINTMENT OF MARIA APODACA  
AND REAPPOINTMENTS OF BART BARRINGER AND DAVID BORING  
TO THE DOWNTOWN IMPROVEMENT DISTRICT BOARD OF  
DIRECTORS FOR A FOUR-YEAR TERM TO EXPIRE JANUARY 1, 2026**

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, Modesto Downtown Improvement District promotes a positive atmosphere in the downtown by caring for physical space, with the mission to attract and retain business, employees, residents, and visitors to downtown Modesto, and

WHEREAS, the Downtown Improvement District Advisory Board consists of 9 members serving in the role of the City's concierge, and

WHEREAS, the Downtown Improvement District Board of Directors are recommending the appointment of Maria Apodaca and the reappointments of Bart Barringer and David Boring to a term ending January 1, 2026 to the Downtown Improvement District Board of Directors.

NOW, THEREFORE, BE IT RESOLVED, by the Council of the City of Modesto that it hereby approves the appointment of Maria Apodaca and reappointments of Bart Barringer and David Boring to the Downtown Improvement District Board of Directors for a four-year term to expire January 1, 2026.


BE IT FURTHER RESOLVED, that the City Clerk is hereby directed to transmit a copy of this Resolution to the reappointed members of the Downtown Improvement District Board of Directors, and as Secretary thereof.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 8th day of February, 2022, by Councilmember Kenoyer, who moved its adoption, which motion being duly seconded by Councilmember Wright, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Escutia-Braaton, Kenoyer, Madrigal, Ricci, Wright, Zoslocki, Mayor Zwahlen

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST:   
DANA SANCHEZ, Interim City Clerk

(SEAL)

APPROVED AS TO FORM:

BY:   
JOSE M. SANCHEZ, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2022-072**

**RESOLUTION CONTINUING TO AUTHORIZE REMOTE  
TELECONFERENCE MEETINGS OF THE CITY OF MODESTO PURSUANT  
TO ASSEMBLY BILL 361**

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

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

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

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

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

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

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

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

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

WHEREAS, on September 28, 2021, the City Council adopted Resolution No. 2021-370 authorizing remote teleconference meetings pursuant to AB361 (Government Code section 54953(e)); and

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

WHEREAS, the City Council has considered the circumstances of the Governor’s state of emergency proclamation pursuant to Government Code section 8625, which remains active; and

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

WHEREAS, the City Council, acting for itself and for the benefit of all of the City’s commissions, committees, and other bodies (collectively referred to as the “Legislative Bodies”), does hereby find that the Legislative Bodies shall continue to conduct their meetings without compliance with Government Code section 54953(b)(3), as authorized by Government Code section 54953(e), and that the Legislative Bodies shall continue to comply with the requirements to provide the public with access to the meetings as prescribed in Government Code section 54953(e)(2) as a consequence of the ongoing state of emergency and the continued social distancing measures required by local officials.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF MODESTO DOES HEREBY RESOLVE AS FOLLOWS:

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

Section 2. Consideration of State of Emergency. The City Council has considered the conditions of the state of emergency declared pursuant to Government Code section 8625, and determined that such emergency conditions continue to be present in the City.

Section 3. Continued Social Distancing Measures by State and Local Officials. The City Council finds that the County of Stanislaus Health Officer’s recommended measures to promote social distancing remain in effect.

Section 4. Remote Teleconference Meetings. The City Council finds that the conditions continue to exist pursuant to Government Code section 54953(e)(3) to allow Legislative Bodies to use teleconferencing to hold public meetings in accordance with Government Code section 54953(e)(2) to ensure members of the public have continued access to safely observe and participate in local government meetings.


The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 8th day of February, 2022, by Councilmember Kenoyer, who moved its adoption, which motion being duly seconded by Councilmember Zoslocki, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Escutia-Braaton, Kenoyer, Madrigal, Ricci, Wright, Zoslocki, Mayor Zwahlen

NOES: Councilmembers: None

ABSENT: Councilmembers: None

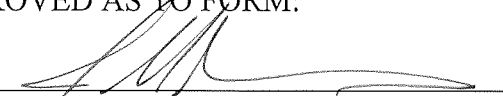
ATTEST:

  
DANA SANCHEZ, Interim City Clerk

(SEAL)

APPROVED AS TO FORM:

BY:

  
JOSE M. SANCHEZ, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2022-073**

**RESOLUTION APPROVING THE CITY COUNCIL CODE OF CONDUCT TO  
PROMOTE A FAIR, ETHICAL, AND TRANSPARENT GOVERNMENT.**

WHEREAS, a 2020 Pew Research study reports that public trust in government is at a historic low. The current dearth of public confidence in government requires that legislative bodies lead in an ethical manner to help promote public trust, and

WHEREAS, many local governments across the country have intended to directly address this issue by setting a standard for behavior through the adoption of a code of conduct and ethics, which serve as the rules and expectations for how they govern, and

WHEREAS, while the Council has worked collaboratively and effectively to address complex issues, the City Council has found it critical to establish a clear governing structure, with a constructive and collaborative atmosphere in light of the national trend showing a general lack of trust in government, and

WHEREAS, the Modesto City Council held a facilitated Council Workshop on October 15, 2021, to discuss how they can more effectively work together to address community issues, and this included a discussion regarding the development of a code of conduct and ethics to help define roles and responsibilities, clear governing structure, and guidelines for Council behavior with colleagues, staff, and the public, and

WHEREAS, this Code is intended to serve as a standard for behavior that may periodically require changes to ensure it reflects the desire of the Council, and

WHEREAS, the regular review of the City Council Code of Conduct by the City Council members is critical to ensure that the document remains helpful to the Council in

providing a framework for effective leadership. This document may be amended by a majority vote of the City Council, and

WHEREAS, there is no fiscal impact associated with this item, and

WHEREAS, due to the nature of this item, it was not heard at the Committee level, however, discussion and review was conducted at a City Council Workshop on October 15, 2021.

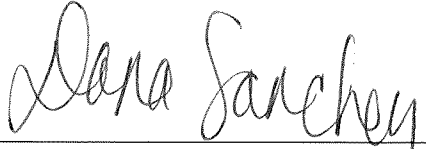
NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approving the City Council Code of Conduct to promote a fair, ethical, and transparent government.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 8th day of February, 2022, by Councilmember Kenoyer, who moved its adoption, which motion being duly seconded by Councilmember Zoslocki, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Escutia-Braaton, Kenoyer, Madrigal, Ricci, Wright, Zoslocki, Mayor Zwahlen

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST:   
DANA SANCHEZ, Interim City Clerk

(SEAL)

APPROVED AS TO FORM:

BY:   
JOSE M. SANCHEZ, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2022-074**

**RESOLUTION AMENDING THE FISCAL YEAR 2021-22 ANNUAL  
OPERATING AND CAPITAL IMPROVEMENT FUND BUDGETS AND  
AUTHORIZING THE CITY MANAGER, TO TAKE THE NECESSARY STEPS  
TO IMPLEMENT THE PROVISIONS OF THIS RESOLUTION**

WHEREAS, a financial analysis has been completed and it has been determined that a budget adjustment is required to the Annual and Capital Improvement Budgets of the City of Modesto for Fiscal Year 2021-22.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves amending the Fiscal Year 2021-22 Annual Operating and Capital Improvement budget as shown in **Exhibit A**, which is **attached** hereto and incorporated by reference herein.

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 8th day of February, 2022, by Councilmember Kenoyer, who moved its adoption, which motion being duly seconded by Councilmember Zoslocki, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Escutia-Braaton, Kenoyer, Madrigal, Ricci, Wright, Zoslocki, Mayor Zwahlen

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST:   
DANA SANCHEZ, Interim City Clerk

(SEAL)

APPROVED AS TO FORM:

BY:   
JOSE M. SANCHEZ, City Attorney

**EXHIBIT A**

**FISCAL YEAR 2021-22**

**COMMUNITY & ECONOMIC DEVELOPMENT**

- A budget adjustment is needed to recognize revenue and amend the discretionary expense budget in the newly created Agricultural Mitigation Fund 3520 in the amount of \$353,421. The funds will be received as part of the agricultural mitigation fee that developers will pay. The revenue will be used to pay for setting up and administering an agricultural mitigation program utilizing land owned by the City at the Jennings Road treatment plant, including start-up costs, on-going monitoring, legal costs, and potential agreements with outside parties for on-going administration.
- A budget adjustment is needed to reduce the budget for project 101293, South Modesto Community Center. At this time, the project will not be moving forward with HUD CDBG funding. All expenses that had been incurred with this project will be funded by HUD CDBG Admin funding for FY22. There is no impact to the General Fund.
- A budget adjustment is necessary to add the revenue and expenditure budget for the Modesto Downtown Community Benefit District in FY 2021-22. This budget is a pass-through budget in which an assessment is collected and then the expenditures are paid directly out of the assessment through the fiscal year. This budget was mistakenly not included in the Adopted FY 2021-22 Operating Budget that was approved by Council but this adjustment will correct that oversight. The adjustment will increase the revenue budget for the Special Assessments account (47051) by \$780,150 in cost center 80035 (CED-Downtown Modesto Community Benefit District) in fund 1210 (Downtown Modesto Community Benefit District). The adjustment will also increase the budget in expense account 53505 (Intergovernmental Services – Other) by \$780,150.

**PUBLIC WORKS**

- *The following adjustments are being made from the various city Fleet Replacement sub-funds to the Fleet Replacement Fund (5409). This action is being done to reimburse the Fleet Replacement Fund (5409) for vehicle purchases that had been made as required by fund accounting rules in FY 21-22 for the activity through December 2021. Below is a table showing the net effect in each sub-fund as a result of the various adjustments.*

<b>Fund</b>	<b>Fund Name</b>	<b>Net Impact of Adjustments</b>
<b>4219</b>	Wastewater Fleet Replacement	\$68,107
<b>5410</b>	General Fund Equipment Fleet Replacement	\$58,829
	<b>Total Transfer Outs</b>	<b>\$126,936</b>
5409	Transfer In – Fleet Management Fleet Replacement	\$126,936
	<b>Total Transfer Ins</b>	<b>\$126,936</b>

A budget adjustment is necessary to establish a transfer in the amount of \$68,107 from Wastewater Fleet Replacement Fund 4219 to Fleet Replacement Fund 5409 for a purchase made in FY 21/22 for (2) Compressor Trailer.

A budget adjustment is necessary to establish a transfer in the amount of \$58,829 from General Fund Equipment Fleet Replacement Fund 5410 to Fleet Replacement Fund 5409 for a purchase made in FY 21/22 for (1) SUV Patrol and Police build out equipment.

- A budget adjustment is necessary to recognize \$59,000 for Federal Aviation Administration revenue in the Special Aviation Fund, Fund 4320, to the American Rescue Plan Act ARPA – FAA Airport Non-Capital Project, #101378, and reallocate to the project discretionary expenses tasks. Funding was recently awarded and accepted by the City from the Federal Aviation Administration (FAA) as part of the Airport Rescue Grant program.

### **REDEVELOPMENT SUCCESSOR AGENCY**

- A budget adjustment is necessary in the amount of \$300,000 to establish a loan from the General Fund to the RDA Successor Agency Administration Fund (Fund 1910) to cover the costs of a settlement agreement between the former City of Modesto Redevelopment Agency and Civic Partners. This loan will be paid back in Fiscal Year 2022-23, pending State Department of Finance approval, with funds from the Redevelopment Property Tax Trust Fund (RPTTF) which is collected by the RDA Successor Agency to pay for approved obligations. This adjustment will also increase the expenditure budget in account 1910-14860-54250 (Settlements) to allow for the payment of the settlement agreement.

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2022-075**

**RESOLUTION APPROVING THE CITY OF MODESTO’S HOMEKEY 2.0 PROJECT APPLICATION FOR 112 JAMES STREET, AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO SUBMIT THE APPLICATION, APPLICABLE DOCUMENTATION, AND PROVIDE TECHNICAL ALTERATIONS, AS REQUIRED BY HCD AS WELL AS NEGOTIATE AND EXECUTE ANY RELATED PROGRAM AGREEMENTS OR DOCUMENTS REQUIRED FOR THE IMPLEMENTATION AND ACCEPTANCE OF HOMEKEY 2.0 PROGRAM GRANT AND AUTHORIZING THE CITY MANAGER OR HIS DESIGNEE TO EXECUTE THE ANY DOCUMENTS FOR THE IMPLEMENTATION OF THIS RESOLUTION**

WHEREAS, in July of 2020, the State of California launched a \$750 million program called “Project Homekey”, with the aim of helping local communities rapidly acquire hotels, motels, commercial buildings, and other creative properties in order to rapidly house people experiencing homelessness during the COVID-19 pandemic, and

WHEREAS, by December 29, 2020, the program had resulted in the acquisition of 94 projects statewide, representing 6,029 units of permanent housing for individuals experiencing homelessness, and

WHEREAS, given the success of “Homekey 1.0”, in January of 2021, Governor Newsom’s Fiscal Year 2021-22 budget included another \$1.4 Billion dollar allocation for “Project Homekey 2.0” (Homekey 2.0) and a Notice of Funding Availability was released September 9, 2021, applications became available late September, and applications are being accepted on a rolling basis until funds are exhausted, and

WHEREAS, the mission of HomeKey 2.0 is to prevent homelessness and to make homelessness rare, brief, by rapidly re-housing individuals through the provision of coordinated, compassionate, and high-quality services, and

WHEREAS during the 2021, strategic planning process conducted by the Stanislaus Community System of Care, the number one goal identified was to “Increase the availability of permanent housing for people experiencing homelessness,” and

WHEREAS, under Homekey, local entities in partnership with a co-applicant (City of Modesto) will acquire and rehabilitate a variety of housing types, including but not limited to hotels, motels, hostels, single-family homes, multifamily apartments, adult residential facilities, manufactured housing, and/or to convert commercial properties and other existing buildings to Permanent or Interim Housing for the Target Population, and

WHEREAS, in order to identify and assess, projects and developers eligible to meet the strict constraints for completion and occupancy, the City and County issued a joint Request for Information (RFI) on July 20, 2021 and this RFI targeted properties owners that The City and County are interested in sites that include, but are not limited to, hotel/motel properties, residential Single-Room Occupancy (SRO) hotels, multi- unit housing sites, and other properties that could be used for permanent housing, and

WHEREAS, the RFI was open until August 15, 2021 and received 9 local properties were interested in having their properties reviewed for eligibility, and

WHEREAS, the City under its consultation process has been approached by developer/operators interested in identifying properties that they can use to further serve their clients and one partnership that developed during this process is with Stanislaus Equity Partners-STEP that identified the property of 112 James Street, Modesto for purchase, and

WHEREAS, as a Community Development Corporation, STEP works to empower Stanislaus residents with access to asset building opportunities through

housing, small business services and affordable lending, so Stanislaus Equity Partners was formed with the support of several stakeholders and partners, including a feasibility study grant provided by the Stanislaus Community Foundation, and

WHEREAS, the James St, Apartments project is a seven unit, newly constructed complex that will provide permanent supportive housing for Stanislaus County BHRS clients who are at risk or experiencing homelessness, and

WHEREAS, individuals will be referred to the James St. Project through the Coordinated Entry System, and

WHEREAS, once a referral has been made Behavioral Health & Recovery Services (BHRS) will screen for eligibility, criteria will be; adults, older adults, transition age young adults with serious mental illness or children with severe emotional disorders and their families whom are homeless, chronically homeless or at risk of chronic homelessness, and

WHEREAS, BHRS will refer certified eligible applicants to Stanislaus Affordable Housing Corporation (STANCO) for the application process, BHRS housing staff will assist the applicant with the paperwork if necessary and all eligible tenant's total household income, at time of move-in, shall not exceed the 30 percent AMI limit for all Homekey assisted units, and

WHEREAS, STANCO will be co-applicant and provide property management services to the James St. Apartments Project and has demonstrated a successful track record in providing transitional and permanent supportive housing to persons with mental health disabilities, as well as owning and operating housing units at rents below market

rates for persons who meet certain income eligibility as required by various governmental regulatory agreements, and

WHEREAS, Staff is seeking approval to submit an application in partnership with Stanislaus Equity Partners for a grant application to the Homekey 2.0 program, for a total funding request of up to \$1,752,000 in acquisition and operating subsidy, and

WHEREAS, Project Homekey has funding available to assist with operating subsidies. Additionally, \$1,000 per unit one-bedroom units if the funding is matched for three years, STEP has been able to secure the matching funding for four years, and therefore the application will include a request for up to an additional \$252,000 in operating subsidies, and

WHEREAS, The State required Resolution specifies an amount of \$3,504,000, or double the total ask, in case additional funding becomes available through the scoring process by HCD as outlined in the State Resolution's Notice and Instructions.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the City of Modesto's Homekey 2.0 Project Application for 112 James Street, and authorizes the City Manager, or his designee, to submit the application, applicable documentation, and provide technical alterations, as required by HCD as well as negotiate and execute any related program agreements or documents required for the implementation and acceptance of Homekey 2.0 Program Grant.

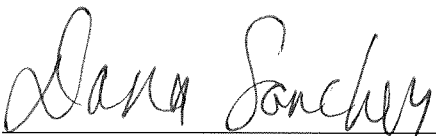
BE IT FURTHER RESOLVED that the City Manager, or his designee, are authorized to execute any documents for the implementation of this Resolution.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 8th day of February, 2022, by Councilmember Kenoyer, who moved its adoption, which motion being duly seconded by Councilmember Zoslocki, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Escutia-Braaton, Kenoyer, Madrigal, Ricci, Wright, Zoslocki, Mayor Zwahlen

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST:   
DANA SANCHEZ, Interim City Clerk

(SEAL)

APPROVED AS TO FORM:

BY:   
JOSE M. SANCHEZ, City Attorney

## AUTHORIZING RESOLUTION

### RESOLUTION NO. 2022-076

#### A RESOLUTION OF THE GOVERNING BODY OF THE City of Modesto AUTHORIZING JOINT APPLICATION TO AND PARTICIPATION IN THE HOMEKEY PROGRAM

##### WHEREAS:

- A. The Department of Housing and Community Development (“**Department**”) has issued a Notice of Funding Availability, dated September 9, 2021 (“**NOFA**”), for the Homekey Program (“**Homekey**” or “**Program**”). The Department has issued the NOFA for Homekey grant funds pursuant to Health and Safety Code section 50675.1.3 (Assem. Bill No. 140 (2021-2022 Reg. Sess.), § 20.).
- B. **City of Modesto** (“**Co-Applicant**”) desires to jointly apply for Homekey grant funds with Stanislaus Equity Partners and Stanislaus County Affordable Housing Corporation (“**Corporations**”). Therefore, Co-Applicant is joining Corporations in the submittal of an application for Homekey funds (“**Application**”) to the Department for review and consideration.
- C. The Department is authorized to administer Homekey pursuant to the Multifamily Housing Program (Chapter 6.7 (commencing with Section 50675) of Part 2 of Division 31 of the Health and Safety Code). Homekey funding allocations are subject to the terms and conditions of the NOFA, the Application, the Department-approved STD 213, Standard Agreement (“**Standard Agreement**”), and all other legal requirements of the Homekey Program.

##### THEREFORE, IT IS RESOLVED THAT:

1. Co-Applicant is hereby authorized and directed to submit a joint Application to the Department in response to the NOFA, and to jointly apply for Homekey grant funds in a total amount not to exceed **\$3,504,000**.
2. If the Application is approved, Co-Applicant is hereby authorized and directed to enter into, execute, and deliver a Standard Agreement in a total amount not to exceed **\$3,504,000**, any and all other documents required or deemed necessary or appropriate to secure the Homekey funds from the Department and to participate in the Homekey Program, and all amendments thereto (collectively, the “**Homekey Documents**”).
3. Co-Applicant acknowledges and agrees that it shall be subject to the terms and conditions specified in the Standard Agreement, and that the NOFA and Application will be incorporated in the Standard Agreement by reference and made a part thereof. Any and all activities, expenditures, information, and timelines represented in the Application are enforceable through the Standard Agreement. Funds are to be used for the allowable expenditures and activities

identified in the Standard Agreement.

4. **City Manager**, or his designee, is authorized to execute the Application and the Homekey Documents on behalf of Co-Applicant for participation in the Homekey Program.

PASSED AND ADOPTED this 8th day of February, 2022, by the following vote:

AYES: [ #7 ] NAYES: [ #0 ] ABSTAIN: [ #0 ] ABSENT: [ #0 ]

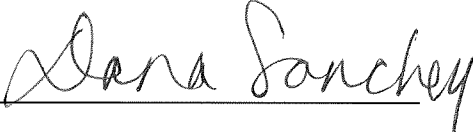
ATTEST:   
DANA SANCHEZ, Interim City Clerk

(SEAL)

APPROVED AS TO FORM:

BY:   
JOSE M. SANCHEZ, City Attorney

The undersigned, **Dana Sanchez**, Interim City Clerk of the City of Modesto, does hereby attest and certify that the foregoing is a true and full copy of a resolution of the governing body adopted at a duly convened meeting on the date above-mentioned, and that the resolution has not been altered, amended, or repealed.

SIGNATURE: 

DATE: 2/9/2022

NAME: Dana Sanchez

TITLE: Interim City Clerk

## NOTICE AND INSTRUCTIONS

1. **Notice.** The Department is providing this template Authorizing Resolution as informational guidance only. The Department encourages each Co-Applicant to consult with professional legal counsel during the development of its own formal, legally binding statement that it is authorized to apply to and participate in the Homekey Program.
  - a. Please note, however, that any limitations or conditions on the authority of the signatory or signatories to execute the Application or the Homekey Documents may result in the Department rejecting the Authorizing Resolution.
2. **Accuracy, Verification.** The Department will verify that this Authorizing Resolution comports with the legal authority and composition of Co-Applicant's governing body. Co-Applicant must timely notify the Department, in writing, of any factors that limit its ability to provide an Authorizing Resolution which is materially in line with this template.
3. **Dollar Amounts of Grant Awards.** The Department recommends identifying an authorized dollar amount that is at least double the anticipated award (based on current formula calculations). Award amounts are subject to change. If Co-Applicant is ultimately awarded an amount in excess of the amount identified in the Authorizing Resolution, the Department will require a new Authorizing Resolution from Co-Applicant before execution of a Standard Agreement.
4. **Authorized Signatory or Signatories, Designee.** Co-Applicant, as a state, regional, or local public entity, may designate an authorized signatory by title only. In addition, Co-Applicant may authorize multiple signatories, so long as there is clarifying language as to whether the signatories are authorized to execute the Homekey Documents individually or collectively. In addition, Co-Applicant may authorize a designee of the authorized signatory to execute the Homekey Documents. In such case, Co-Applicant must append a supporting document (e.g., memorandum, meeting notes of official action), which indicates the name and title of the designee who is authorized to legally bind the governing body.
5. **Vote Count.** Please fill out the field by every voting category (i.e., Ayes, Nays, Abstain, Absent). If none, please indicate zero (0) for that field. The vote count must comport with the legal authority and membership of the Co-Applicant's governing body.
6. **Certification of Authorizing Resolution.** The individual who certifies the Authorizing Resolution cannot also be authorized to execute the Homekey Documents on behalf of Co-Applicant.

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2022-077**

**RESOLUTION APPROVING A LOAN TO THE STANISLAUS EQUITY PARTNERS LOAN IN AN AMOUNT UP TO \$200,000 IN COMMUNITY DEVELOPMENT BLOCK GRANT FUNDS TO ASSIST WITH THE ACQUISITION OF 112 JAMES STREET AND \$50,000 FOR STAFF ACTIVITY DELIVERY COSTS, AND AUTHORIZING THE CITY MANAGER OR HIS DESIGNEE TO EXECUTE THE AGREEMENTS**

WHEREAS, the City of Modesto is an entitlement community under three U.S. Department of Housing and Urban Development (HUD) programs within its Office of Community Planning and Development (CPD), and

WHEREAS, as an entitlement community, the City annually receives entitlement funds from the Community Development Block Grant, Emergency Solutions Grant, and HOME Investment Partnerships Program (HOME) programs, and

WHEREAS, the City of Modesto's Program Year (PY) 2021-2022 Annual Action Plan represents the second (2<sup>nd</sup>) plan of the City of Modesto's 2020-2024 Consolidated Plan, and

WHEREAS, the PY 2021-2022 AAP identifies the expected resources to be available and the projects to be funded during the program year to address community priority needs as identified in the Consolidated Plan, and

WHEREAS, CDBG funds support a range of eligible projects to benefit low and moderate income individuals, families, and neighborhoods, and

WHEREAS, CDBG funds must be allocated to eligible activities within the allowable project categories to support the goals and objectives identified within the Consolidated Plan to address community needs, and

WHEREAS, under Homekey, local entities in partnership with a co-applicant (City of Modesto) will acquire and rehabilitate a variety of housing types, including but not limited to hotels, motels, hostels, single-family homes, multifamily apartments, adult residential facilities, manufactured housing, and/or to convert commercial properties and other existing buildings to Permanent or Interim Housing for the Target Population, and

WHEREAS, in order to identify and assess, projects and developers eligible to meet the strict constraints for completion and occupancy, the City and County issued a joint Request for Information (RFI) on July 20, 2021 and this RFI targeted properties owners that The City and County are interested in sites that include, but are not limited to, hotel/motel properties, residential Single-Room Occupancy (SRO) hotels, multi- unit housing sites, and other properties that could be used for permanent housing, and

WHEREAS, the RFI was open until August 15, 2021 and received 9 local properties were interested in having their properties reviewed for eligibility, and

WHEREAS, as a Community Development Corporation, STEP works to empower Stanislaus residents with access to asset building opportunities through housing, small business services and affordable lending, so Stanislaus Equity Partners was formed with the support of several stakeholders and partners, including a feasibility study grant provided by the Stanislaus Community Foundation, and

WHEREAS, the James St, Apartments project is a seven unit, newly constructed complex that will provide permanent supportive housing for Stanislaus County BHRS clients who are at risk or experiencing homelessness, and

WHEREAS, individuals will be referred to the James St. Project through the Coordinated Entry System, and

WHEREAS, once a referral has been made Behavioral Health & Recovery Services (BHRS) will screen for eligibility, criteria will be; adults, older adults, transition age young adults with serious mental illness or children with severe emotional disorders and their families whom are homeless, chronically homeless or at risk of chronic homelessness, and

WHEREAS, BHRS will refer certified eligible applicants to Stanislaus Affordable Housing Corporation (STANCO) for the application process, BHRS housing staff will assist the applicant with the paperwork if necessary and all eligible tenant's total household income, at time of move-in, shall not exceed the 30 percent AMI limit for all Homekey assisted units, and

WHEREAS, to assist with the gap, the City is proposing a \$200,000 CDBG Loan to Stanislaus Equity Partners to assist with the acquisition costs of the project.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves a loan to the Stanislaus Equity Partners in an amount up to \$200,000 in Community Development Block Grant Funds to assist with the acquisition of 112 James Street and \$50,000 for staff activity delivery costs.

BE IT FURTHER RESOLVED that the City Manager, or his designee, is authorized to execute the agreement with such changes as determined by the City Attorney.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 8th day of February, 2022, by Councilmember Kenoyer, who moved its adoption, which motion being duly seconded by Councilmember Zoslocki, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Escutia-Braaton, Kenoyer, Madrigal, Ricci, Wright, Zoslocki, Mayor Zwahlen

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST:   
DANA SANCHEZ, Interim City Clerk

(SEAL)

APPROVED AS TO FORM:

BY:   
JOSE M. SANCHEZ, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2022-078**

**RESOLUTION AMENDING THE FISCAL YEAR 2021-2022 MULTI-YEAR FUND BUDGET TO ESTABLISH A PROJECT FOR THE HOMEKEY 2.0 PROGRAM TO BE FUNDED WITH HOMEKEY 2.0 AND COMMUNITY DEVELOPMENT BLOCK GRANT (CDBG) GRANTS AND AUTHORIZING THE CITY MANAGER OR HIS DESIGNEE, TO TAKE THE NECESSARY STEPS TO IMPLEMENT THE PROVISIONS OF THIS RESOLUTION**

WHEREAS, the City of Modesto is applying to receive funding from the State of California Housing and Community Development Department (HCD) in partnership with Stanislaus Equity Partners (STEP) for the Homekey 2.0 Program, and

WHEREAS, if approved the fiscal year 2021-2022 Multi-Year budget must be amended, and

WHEREAS, the project will be funded with approximately \$1,500,000 in Homekey 2.0 Program funds and \$200,000 in CDBG funds for property acquisition and capital improvements and \$50,000 in CDBG funds for administration, and

WHEREAS, the project will also be eligible for \$252,000 in operating subsidies funded by the Homekey 2.0 Program.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby amends the fiscal year 2021-2022 multi-year fund budget to establish a project for the Homekey 2.0 Program to be funded with HCD Homekey 2.0 Grant funds and CDBG Grant funds.

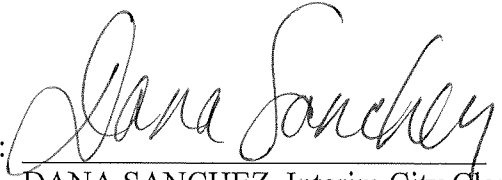
BE IT FURTHER RESOLVED that the City Manager or his designee is authorized to take the necessary steps to implement the provisions of this resolution.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 8th day of February, 2022, by Councilmember Kenoyer, who moved its adoption, which motion being duly seconded by Councilmember Zoslocki, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Escutia-Braaton, Kenoyer, Madrigal, Ricci, Wright, Zoslocki, Mayor Zwahlen

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST:   
DANA SANCHEZ, Interim City Clerk

(SEAL)

APPROVED AS TO FORM:

BY:   
JOSE M. SANCHEZ, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2022-079**

**RESOLUTION AMENDING THE FISCAL YEAR 2021-2022 MULTI-YEAR FUND BUDGET TO TRANSFER \$250,000 FROM FUND (1130) – GRANTS – CDBG PROGRAM TO HOMEKEY 2.0 PROJECT AND AUTHORIZING THE CITY MANAGER OR HIS DESIGNEE, TO TAKE THE NECESSARY STEPS TO IMPLEMENT THE PROVISIONS OF THIS RESOLUTION**

WHEREAS, the City of Modesto is applying to receive funding from the State of California Housing and Community Development Department (HCD) in partnership with the Stanislaus Affordable Housing Corporation (STANCO) for the Homekey 2.0 program, and

WHEREAS, if approved the fiscal year 2021-2022 Multi-Year budget must be amended, and

WHEREAS, the Homekey 2.0 project will be funded with approximately with \$1,752,000 in Homekey 2.0 funds and \$200,000 in Community Development Block Grant (CDBG) funds for acquisition and capital improvements.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby amends the fiscal year 2021-2022 multi-year fund budget to transfer \$250,000 from fund (1130) – Grants – CDBG Program to the Homekey 2.0 project.

BE IT FURTHER RESOLVED, that the City Manager or his designee is 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 February, 2022, by Councilmember Kenoyer, who moved its adoption, which motion being duly seconded by Councilmember Zoslocki, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Escutia-Braaton, Kenoyer, Madrigal, Ricci, Wright, Zoslocki, Mayor Zwahlen

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST:   
DANA SANCHEZ, Interim City Clerk

(SEAL)

APPROVED AS TO FORM:

BY:   
JOSE M. SANCHEZ, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2022-080**

**RESOLUTION DIRECTING STAFF TO PREPARE AND FILE THE FISCAL  
YEAR 2022-2023 ENGINEER'S ANNUAL REPORT FOR CITY OF MODESTO  
LANDSCAPE MAINTENANCE ASSESSMENT DISTRICT NO. 1 (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 (LMAD No. 1) to provide funding for the landscape maintenance in the public right-of-way, street medians and adjacent to the access control walls in Dry Creek Meadows Subdivisions Nos. 1-6, and

WHEREAS, LMAD No. 1 was formed in accordance with the Landscaping and Lighting Act of 1972 (Streets and Highways Code Sections 22500 through 22679), and comprised of 749 single-family residential lots and three (3) public agency owned parcels, and

WHEREAS, Section 22620 et. seq. of the Streets and Highways Code requires the legislative body (the City Council) adopt a resolution which shall generally describe any proposed new improvements or any substantial changes in existing improvements and orders the preparation and filing of the report, and

WHEREAS, the annual assessment for LMAD No. 1 has remained the same since 1996, and

WHEREAS, there are new improvements or substantial changes in existing improvements in LMAD No. 1.

NOW, THEREFORE, BE IT RESOLVED that the City Engineer is designated by this Council as the Engineer of Work for LMAD No. 1, and 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 8th day of February, 2022, by Councilmember Kenoyer, who moved its adoption, which motion being duly seconded by Councilmember Zoslocki, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Escutia-Braaton, Kenoyer, Madrigal, Ricci, Wright, Zoslocki, Mayor Zwahlen

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST:   
DANA SANCHEZ, Interim City Clerk

(SEAL)

APPROVED AS TO FORM:

BY:   
JOSE M. SANCHEZ, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2022-081**

**RESOLUTION DIRECTING STAFF TO PREPARE AND FILE THE FISCAL YEAR 2022-2023 ENGINEER'S ANNUAL REPORT FOR LANDSCAPE MAINTENANCE ASSESSMENT DISTRICT NO. 2 (DRY CREEK MEADOWS SUBDIVISIONS NOS. 7-10, CREEKWOOD MEADOWS SUBDIVISION AND YOSEMITE MEADOWS SUBDIVISIONS UNITS 1 AND 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 Maintenance Assessment District No. 2 (LMAD No. 2) to provide funding for the landscape maintenance in the public right-of-way, street medians, and areas adjacent to the access control walls in Dry Creek Meadows Subdivisions Nos. 7 through 10, Creekwood Meadows Subdivision, and Yosemite Meadows Subdivisions Units 1 and 2, and

WHEREAS, LMAD No. 2 was formed in accordance with the Landscaping and Lighting Act of 1972 (Streets and Highways Code Sections 22500 through 22679), and

WHEREAS, Section 22620 of the Streets and Highways Code requires the legislative body (the City Council) to adopt a resolution which shall generally describe any proposed new improvements or any substantial changes in existing improvements and direct staff to prepare and to file a report accordingly, and

WHEREAS, the annual assessment for LMAD No. 2 has gradually increased since July 2000, and

WHEREAS, there are no new improvements or substantial changes in existing improvements in LMAD No. 2.

NOW, THEREFORE, BE IT RESOLVED, that the City Engineer is designated by this City Council as the Engineer of Work for LMAD No. 2, and 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 8th day of February, 2022, by Councilmember Kenoyer, who moved its adoption, which motion being duly seconded by Councilmember Zoslocki, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Escutia-Braaton, Kenoyer, Madrigal, Ricci, Wright, Zoslocki, Mayor Zwahlen

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST:   
DANA SANCHEZ, Interim City Clerk

(SEAL)

APPROVED AS TO FORM:

BY:   
JOSE M. SANCHEZ, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2022-082**

**RESOLUTION DIRECTING STAFF TO PREPARE AND FILE THE FISCAL  
YEAR 2022-2023 ENGINEER'S ANNUAL REPORT FOR THE SHACKELFORD  
LANDSCAPE AND LIGHTING DISTRICT**

WHEREAS, on June 29, 1999, the County of Stanislaus formed the Shackelford Landscape and Lighting District (Shackelford LLD) for the purpose of administering the maintenance and service of six (6) 95-watt and seventy-six (76) 200-watt high-pressure sodium streetlights, and

WHEREAS, the Shackelford LLD was formed in accordance with the Landscaping and Lighting Act of 1972 (Streets and Highways Code Sections 22500 through 22679), and

WHEREAS, the Shackelford LLD is comprised of approximately 153 acres, includes 494 lots with both residential and commercial development, and is bounded by Crows Landing Road on the west, East Hatch Road on the south, Union Pacific Railroad on the east, and State Route 99 on the north, and

WHEREAS, on July 1, 2012, the City of Modesto assumed jurisdiction of the Shackelford Landscape and Lighting District from the County of Stanislaus, and

WHEREAS, Section 22620 of the Streets and Highways Code requires the legislative body (the City Council) to adopt a resolution which shall generally describe any proposed new improvements or any substantial changes in existing improvements and direct staff to prepare and to file a report accordingly, and

WHEREAS, the annual assessment for the Shackelford LLD has gradually increased since June 1999, and

WHEREAS, there are no new improvements or substantial changes in existing improvements in the Shackelford LLD.

NOW, THEREFORE, BE IT RESOLVED that the City Engineer is designated by this Council as the "Engineer of Work" for the Shackelford LLD, and 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 8th day of February, 2022, by Councilmember Kenoyer, who moved its adoption, which motion being duly seconded by Councilmember Zoslocki, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Escutia-Braaton, Kenoyer, Madrigal, Ricci, Wright, Zoslocki, Mayor Zwahlen

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST:   
DANA SANCHEZ, Interim City Clerk

(SEAL)

APPROVED AS TO FORM:

BY:   
JOSE M. SANCHEZ, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2022-083**

**RESOLUTION APPROVING THE AWARD OF BID FOR A LOW-PROFILE DUMP TRUCK TO TOWNE FORD SALES, REDWOOD CITY, CA FOR A TOTAL AMOUNT NOT TO EXCEED \$99,797; AND AUTHORIZING THE PURCHASING MANAGER, OR HER DESIGNEE, TO ISSUE THE PURCHASE ORDER**

WHEREAS, this vehicle is used to support utility operations for the Utilities Water Construction Division; and

WHEREAS, Modesto Municipal Code Section 8-3.203 requires all purchases, which meet or exceed \$50,000 for material, equipment or contractual services to be formally bid; and

WHEREAS, on November 29, 2021, the Purchasing Division issued Request for Bids (RFB) 2122-36 for one Low-Profile Dump Truck on the City's website under commodity codes - 07051-Trucks (Over One-Ton Capacity), 07053 – Trucks with specialized bodies; and

WHEREAS, twenty-four (24) companies downloaded the RFB document, one vendor chose to submit a bid, there was no local bid received; and

WHEREAS, on January 4, 2022, bids were formally opened in the City Clerk's office and Towne Ford Sales, Redwood City, CA, was the only responsive and responsible bidder; and

WHEREAS, based on providing the only responsive and responsible bid which conforms to the Modesto Municipal Code, Section 8-3.203 City staff recommends the award of bid for a Low-Profile Dump Truck to Towne Ford Sales, Redwood City, CA.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the award of bid for a Low-Profile Dump Truck to Towne Ford Sales, Redwood City, CA for a total amount not to exceed \$99,797.

BE IT FURTHER RESOLVED, that the Purchasing Manager, or her designee, is hereby authorized to execute the purchase order.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 8th day of February, 2022, by Councilmember Kenoyer, who moved its adoption, which motion being duly seconded by Councilmember Zoslocki, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Escutia-Braaton, Kenoyer, Madrigal, Ricci, Wright, Zoslocki, Mayor Zwahlen

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST:   
DANA SANCHEZ, Interim City Clerk

(SEAL)

APPROVED AS TO FORM:

BY:   
JOSE M. SANCHEZ, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2022-084**

**RESOLUTION APPROVING THE AWARD OF BID FOR TWO ONE-TON  
EXTENDED CAB TRUCKS TO NAPA FORD, NAPA, CA FOR A TOTAL  
AMOUNT NOT TO EXCEED \$110,114; AND AUTHORIZING THE  
PURCHASING MANAGER, OR HER DESIGNEE, TO ISSUE THE PURCHASE  
ORDER**

WHEREAS, this vehicle is used to support utility operations for the Utilities Water, Wells and Treatment functions; and

WHEREAS, Modesto Municipal Code Section 8-3.203 requires all purchases, which meet or exceed \$50,000 for material, equipment or contractual services to be formally bid; and

WHEREAS, on November 30, 2021, the Purchasing Division issued Request for Bids (RFB) 2122-37 for two One-Ton Extended Cab Trucks on the City's website under commodity codes - 07051-Trucks (Over One-Ton Capacity), 07053 – Trucks with specialized bodies; and

WHEREAS, fifteen (15) companies downloaded the RFB document, one vendor chose to submit a bid, there was no local bid received; and

WHEREAS, on January 18, 2022, bids were formally opened in the City Clerk's office and XX, was the only responsive and responsible bidder; and

WHEREAS, based on providing the only responsive and responsible bid which conforms to the Modesto Municipal Code, Section 8-3.203 City staff recommends the award of bid for a two One-Ton Extended Cab Trucks to Napa Ford, Napa, CA.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the award of bid for two One-Ton Extended Cab Trucks to Napa Ford, Napa, CA for a total amount not to exceed \$110,114.

BE IT FURTHER RESOLVED, that the Purchasing Manager, or her designee, is hereby authorized to execute the purchase order.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 8th day of February, 2022, by Councilmember Kenoyer, who moved its adoption, which motion being duly seconded by Councilmember Zoslocki, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Escutia-Braaton, Kenoyer, Madrigal, Ricci, Wright, Zoslocki, Mayor Zwahlen

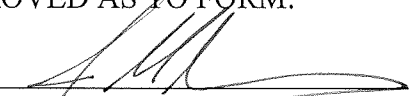
NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST:   
DANA SANCHEZ, Interim City Clerk

(SEAL)

APPROVED AS TO FORM:

BY:   
JOSE M. SANCHEZ, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2022-085**

**RESOLUTION APPROVING THE COMPETITIVE BIDDING PROCESS FROM SOURCEWELL (FORMERLY NATIONAL JOINT POWERS ALLIANCE) WITH PAPE MACHINERY, FRENCH CAMP, CA FOR A JOHN DEERE WHEEL LOADER FOR A TOTAL AMOUNT NOT TO EXCEED \$288,135 AND AUTHORIZING THE PURCHASING MANAGER, OR HER DESIGNEE, TO ISSUE THE PURCHASE ORDER**

WHEREAS, every year, City vehicles and equipment are individually evaluated based on their age, condition, mileage and maintenance costs; and

WHEREAS, Sourcewell's analysts streamline the procurement process by developing RFP's for national competitive solicitations that meet or exceed local requirements; and

WHEREAS, on January 31, 2019, Sourcewell issued Request for Proposals (RFP) #032119 JPC for Heavy Construction Equipment with Related Accessories, Attachments, and Supplies on the Sourcewell website; and

WHEREAS, the RFP was also advertised and distributed to ninety-eight (98) vendors; and

WHEREAS, fifteen proposals were received and based on the Sourcewell Proposal Review Committee and criteria outlines in the RFP, fourteen contracts were awarded for Heavy Construction Equipment with Related Accessories, Attachments and Supplies; and

WHEREAS, Modesto Municipal Code (MMC) Section 8-3.203 generally requires all purchases that meet or exceed \$50,000 for material, equipment or contractual services to be formally bid. However, exceptions to the formal bidding process are granted in MMC 8-3.204(d) "Where the Purchasing Manager, in her discretion, determines that a

process other than the formal bid procedure set for 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, MMC 8-3.202(h) encourages the Purchasing Manager to join with the State of California or other units of government in cooperative purchasing plans when the best cost savings interest of the City would be served.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the competitive bidding process from Sourcewell (formerly National Joint Powers Alliance) with Pape Machinery, French Camp, CA for a John Deere Wheel Loader for a total amount not to exceed \$288,135.

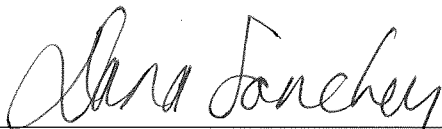
BE IT FURTHER RESOLVED, that the Purchasing Manager, or her designee, is hereby authorized to execute the purchase order.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 8th day of February, 2022, by Councilmember Kenoyer, who moved its adoption, which motion being duly seconded by Councilmember Zoslocki, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Escutia-Braaton, Kenoyer, Madrigal, Ricci, Wright, Zoslocki, Mayor Zwahlen

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST:   
DANA SANCHEZ, Interim City Clerk

(SEAL)

APPROVED AS TO FORM:

BY:   
JOSE M. SANCHEZ, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2022-086**

**RESOLUTION APPROVING THE COMPETITIVE BIDDING PROCESS FROM MERCED COUNTY, FAST OPEN CONTRACTS UTILIZATION SERVICES (FOCUS), MERCED, CA FOR CISCO ANNUAL LICENSING AND SUPPORT MAINTENANCE WITH TELCION COMMUNICATIONS GROUP, TURLOCK, CA FOR A THREE-YEAR AGREEMENT FOR A TOTAL AMOUNT NOT TO EXCEED \$554,814; AND AUTHORIZING THE PURCHASING MANAGER, OR HER DESIGNEE, TO ISSUE A PURCHASE ORDER**

WHEREAS, the City of Modesto has standardized all switching and routing network equipment on Cisco Systems, Inc; and

WHEREAS, Cisco annual licensing and maintenance support is a support service that provides City staff with direct, 24-hour access to Cisco engineers and an extensive range of technical resources; and

WHEREAS, on November 30, 2020, the Merced County FOCUS Division issued Request for Proposal #7370 for Technology Expertise, Equipment, Service and Systems on the Merced County Purchasing Division website; and

WHEREAS, proposals were formally opened at the Merced County Purchasing Division office on January 15, 2021; and

WHEREAS, based on the scoring criteria defined in the Request for Proposals, four (4) companies were awarded contracts; Contract No. 2021106 was awarded to Telcion Communications Group, Turlock, CA for Technology Expertise, Equipment, Services and Systems effective June 8, 2021 through June 7, 2024; and

WHEREAS, Fast Open Contracts Utilization Services (FOCUS) is California's only nationwide, local government-to-government purchasing program and allows cities, counties, schools, special districts and other public entities to acquire technology products and services quickly, easily and at competitive rates; and

WHEREAS, Modesto Municipal Code Section 8-3.203 generally requires all purchases, which meet or exceed \$50,000 for material, equipment or contractual services to be formally bid; and

WHEREAS, exceptions to the formal bidding process are granted in MMC 8-3.204(d) “Where the Purchasing Manager, in her discretion, determines that a process other than the formal bid procedure set forth in Section 8-3.203 will result in a procurement for the City at the lowest cost commensurate with the desired quality.” In addition, MMC 8-3.202(h) encourages the Purchasing Manager to join with the State of California and other units of government in cooperative purchasing plans when the best cost savings interest of the City would be served.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the competitive bidding process from Merced County, Fast Open Contracts Utilization Services (FOCUS), Merced, CA for Cisco Annual Licensing and Support Maintenance with Telcion Communications Group, Turlock, CA for a three-year agreement for a total amount not to exceed \$554,814.

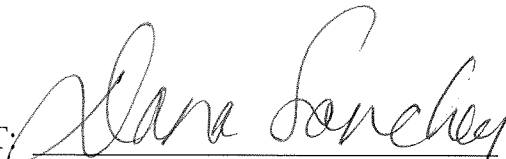
BE IT FURTHER RESOLVED, that the Purchasing Manager, or her designee, is hereby authorized to issue a purchase order, a form approved by the City Attorney.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 8th day of February, 2022, by Councilmember Kenoyer, who moved its adoption, which motion being duly seconded by Councilmember Zoslocki, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Escutia-Braaton, Kenoyer, Madrigal, Ricci, Wright, Zoslocki, Mayor Zwahlen

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST:   
DANA SANCHEZ, Interim City Clerk

(SEAL)

APPROVED AS TO FORM:

BY:   
JOSE M. SANCHEZ, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2022-087**

**RESOLUTION APPROVING THE COMPETITIVE BIDDING PROCESS FROM SOURCEWELL (FORMERLY NATIONAL JOINT POWERS ALLIANCE) WITH RAPID VIEW IBAK NORTH AMERICA UNDER AUTHORIZED DEALER JACK DOHENY COMPANY, NORTHVILLE, MI, FOR A CLOSED-CIRCUIT TELEVISION (CCTV) VAN FOR A TOTAL AMOUNT NOT TO EXCEED \$264,154; AND AUTHORIZING THE PURCHASING MANAGER, OR HER DESIGNEE, TO ISSUE THE PURCHASE ORDER**

WHEREAS, in 2006, the State Water Resources Control Board (Regional Board) implemented a general Waste Discharge Requirements (WDR) governing the operations and maintenance of wastewater collection systems; and

WHEREAS, the WDR requires a Sanitary Sewer Management Plan (SSMP) be adopted by the “Enrollees” governing board at a public meeting which occurred on April 7, 2009; and

WHEREAS, a key element in the SSMP, as outlined in the WDR, is the development of a rehabilitation and replacement plan; the program should include regular visual and TV inspections of manholes and sewer pipes; and

WHEREAS, the additional CCTV unit is critical in improving the City’s Sanitary Sewer Overflow (SSO) reduction program and to maintain the required inspections for the system by industry standards; and

WHEREAS, on November 16, 2017, Sourcewell issued Request for Proposals (RFP) #122017 for Sewer Vacuum, Hydro-Excavation, and Street Sweeper Equipment, with Related Accessories and Supplies, on the Sourcewell website, the Onvia website, PublicPurchase.com website, Merx, Biddingo, AAMDC, and the New York State Contract Reporter; and

WHEREAS, the RFP was also advertised and distributed to fifty-eight (58) vendors; and

WHEREAS, thirty (30) proposals were received and based on the Sourcewell Proposal Review Committee and criteria outlines in the RFP, thirteen (13) contracts were awarded for Sewer Vacuum, Hydro-Excavation, and Street Sweeper Equipment, with Related Accessories and Supplies; and

WHEREAS, Modesto Municipal Code (MMC) Section 8-3.203 generally requires all purchases that meet or exceed \$50,000 for material, equipment or contractual services to be formally bid. However, exceptions to the formal bidding process are granted in MMC 8-3.204(d) “Where the Purchasing Manager, in her discretion, determines that a process other than the formal bid procedure set for 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, MMC 8-3.202(h) encourages the Purchasing Manager to join with the State of California or other units of government in cooperative purchasing plans when the best cost savings interest of the City would be served.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the competitive bidding process from Sourcewell (formerly National Joint Powers Alliance) with Rapid View IBAK North America under authorized dealer Jack Doheny Company, Northville, MI, for a Closed-Circuit Television (CCTV) van for a total amount not to exceed \$264,154.


BE IT FURTHER RESOLVED, that the Purchasing Manager, or her designee, is hereby authorized to execute the purchase order.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 8th day of February, 2022, by Councilmember Kenoyer, who moved its adoption, which motion being duly seconded by Councilmember Zoslocki, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Escutia-Braaton, Kenoyer, Madrigal, Ricci, Wright, Zoslocki, Mayor Zwahlen


NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST:   
DANA SANCHEZ, Interim City Clerk

(SEAL)

APPROVED AS TO FORM:

BY:   
JOSE M. SANCHEZ, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2022-088**

**RESOLUTION APPROVING AN AGREEMENT TO PROVIDE FIRE ADMINISTRATIVE SERVICES BETWEEN THE CITY OF MODESTO AND THE CITY OF TURLOCK FOR A FOUR-YEAR, FOUR AND ONE-HALF MONTH TERM, WITH ONE TWO-YEAR EXTENSION OPTION, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE AGREEMENT**

WHEREAS, the City of Modesto (“COM”) and City of Turlock Fire Department (“Turlock”) both provide fire protection services, as well as emergency medical services, special operations and administrative services; and

WHEREAS, Turlock recently requested a proposal to provide fire administrative services to their city; and

WHEREAS, in order to maintain fire services for Turlock, the department is requesting one Deputy Chief, at the Assistant Chief pay rate, to represent the city and serve as their Fire Chief, overseeing and administering Turlock operations including budget, training, personnel, facilities, and all other district operations; and

WHEREAS, the Deputy Chief will remain an employee of the City of Modesto, under the supervision and control of the Modesto Fire Chief; and

WHEREAS, the initial term of the agreement will be for four years, four and one-half months, from February 15, 2022 through June 30, 2026, with the option to extend for an additional two-year term if all parties agree no later than June 30, 2025; and

WHEREAS, this agreement positively impacts the General Fund through the economies of scale from regionalization; and

WHEREAS, the total anticipated cost of the contract, over the four-year, four and one-half month term is \$1,628,999; and

WHEREAS, the anticipated revenue generated from the administrative fee, over the four-year, four and one-half month term is \$218,750.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Council hereby approves the agreement to provide fire administrative services between the City of Modesto and the City of Turlock for a four-year, four and one-half month, with one two-year extension option.

BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to execute the agreement, in a form approved by the City Attorney.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 8th day of February, 2022, by Councilmember Kenoyer, who moved its adoption, which motion being duly seconded by Councilmember Zoslocki, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Escutia-Braaton, Kenoyer, Madrigal, Ricci, Wright, Zoslocki, Mayor Zwahlen


NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST:   
DANA SANCHEZ, Interim City Clerk

(SEAL)

APPROVED AS TO FORM:

BY:   
JOSE M. SANCHEZ, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2022-089**

**RESOLUTION AMENDING THE POSITION ALLOCATION FOR FISCAL  
YEAR 2021-2022 AS ADOPTED IN THE OPERATING BUDGET**

WHEREAS, per Personnel Administrative Order 2.2-87-12, a classification study may be conducted in response to a reclassification request, to develop/revise a classification specification, or to assist in a reorganization; and

WHEREAS, classifications are being added to support a contract for fire administrative services with the City of Turlock Fire Department; and

WHEREAS, position changes will be effective the pay period in which February 15, 2022 falls, (Pay Period beginning February 15, 2022).

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves amending the Position Allocation and the Fiscal Year 2021-2022 Operating Budget for various departments as follows:

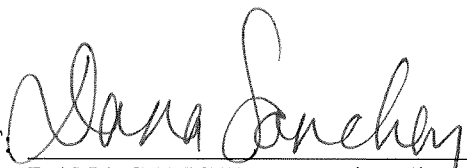
1. Create one (1) Deputy Chief at the Assistant Fire Chief pay rate.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 8th day of February, 2022, by Councilmember Kenoyer, who moved its adoption, which motion being duly seconded by Councilmember Zoslocki, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Escutia-Braaton, Kenoyer, Madrigal, Ricci, Wright, Zoslocki, Mayor Zwahlen

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST:   
DANA SANCHEZ, Interim City Clerk

(SEAL)

APPROVED AS TO FORM:

BY:   
JOSE M. SANCHEZ, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2022-090**

**RESOLUTION AMENDING THE FISCAL YEAR 2021-22 OPERATING  
BUDGET BY \$126,555 IN REVENUES AND \$107,805 IN EXPENSES AND  
AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE TO IMPLEMENT  
THE PROVISIONS OF THIS RESOLUTION**

WHEREAS, the City of Modesto (“COM”) and City of Turlock Fire Department (“Turlock”) both provide fire protection services, as well as emergency medical services, special operations and administrative services; and

WHEREAS, Turlock recently requested a proposal to provide fire administrative services to their city; and

WHEREAS, in order to maintain fire services for Turlock, the department is requesting one Deputy Chief, at the Assistant Chief pay rate, to represent the city and serve as their Fire Chief, overseeing and administering Turlock operations including budget, training, personnel, facilities, and all other district operations as directed by the City of Turlock; and

WHEREAS, this agreement positively impacts the General Fund through the economies of scale from regionalization; and

WHEREAS, the total anticipated cost of the contract, over the four-year, four and one-half month term is \$1,628,999; and

WHEREAS, the anticipated revenue generated from the administrative fee, over the four-year, four and one-half month term is \$218,750.

WHEREAS, certain budgetary adjustments are necessary to fund this action.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves amending the Fiscal Year 2021-22 Operating Budget by \$126,555

in revenues and \$107,805 in expenses in Modesto Fire Department – Fire Services Cost Center (18214) in the General Fund to support this action.

BE IT FURTHER RESOLVED, that the City Manager, or his designee is hereby authorized to implement the provisions of this resolution.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 8th day of February, 2022, by Councilmember Kenoyer, who moved its adoption, which motion being duly seconded by Councilmember Zoslocki, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Escutia-Braaton, Kenoyer, Madrigal, Ricci, Wright, Zoslocki, Mayor Zwahlen

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST:   
DANA SANCHEZ, Interim City Clerk

(SEAL)

APPROVED AS TO FORM:

BY:   
JOSE M. SANCHEZ, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2022-091**

**RESOLUTION APPROVING A CELL TOWER LEASE AMENDMENT AT BEYER PARK WITH T-MOBILE WEST, LLC, A DELAWARE LIMITED LIABILITY COMPANY (T-MOBILE), EXTENDING THE MAXIMUM TERM OF THE AGREEMENT THROUGH DECEMBER 31, 2043 AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE TO EXECUTE THE AGREEMENT**

WHEREAS, the City of Modesto partners with various cellular service providers by leasing city property for cell towers, and

WHEREAS, these partnerships are a benefit to the residents of the City of Modesto by improving cellular service coverage throughout Modesto, improving coverage for the FCC mandated E911 Services, and also provide annual revenue to the City of Modesto to maintain the City park system, and

WHEREAS, on December 11, 2003, by Resolution No. 2003-645, Council approved a 5-year lease agreement with T-Mobile California, LLC, a Delaware limited liability company (T-Mobile) for 347 square feet as well as the use of 1 outfield softball field lighting pole at Beyer Park. This agreement included three (3) extensions of five (5) years each expiring December 31, 2023, and

WHEREAS, in early 2021, T-Mobile notified the City of their interest in amending the existing lease agreement to provide long-term site security, and

WHEREAS, the two parties have reach agreement on terms for and amendment, extending the lease agreement, and

WHEREAS, the amendment includes the following terms:

- 1) Term extension: Four (4) additional five (5) year renewal terms which would extend the final contract expiration term until December 31, 2043.

2) Effective January 1, 2024, the rent will be increased to \$2,127.90 Monthly (\$25,534.80 annually) and increase at a rate of 3% each year thereafter.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves a cell tower lease amendment at Beyer Park with T-Mobile West, LLC, a Delaware limited liability company (T-Mobile), extending the maximum term of the Agreement through December 31, 2043.

BE IT FURTHER RESOLVED, that the City Manager, or his designee, is hereby authorized to execute the agreement, in a form approved by the City Attorney.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 8th day of February, 2022, by Councilmember Kenoyer, who moved its adoption, which motion being duly seconded by Councilmember Zoslocki, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Escutia-Braaton, Kenoyer, Madrigal, Ricci, Wright, Zoslocki, Mayor Zwahlen


NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST:   
DANA SANCHEZ, Interim City Clerk

(SEAL)

APPROVED AS TO FORM:

BY:   
JOSE M. SANCHEZ, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2022-092**

**RESOLUTION APPROVING A CELL TOWER LEASE AMENDMENT AT DAVIS PARK WITH METROPCS CALIFORNIA, LLC, A DELAWARE LIMITED LIABILITY COMPANY (METROPCS), EXTENDING THE MAXIMUM TERM OF THE AGREEMENT THROUGH NOVEMBER 30, 2044 AND AUTHORIZING THE REPLACEMENT OF EXISTING BALL FIELD LIGHTING INFRASTRUCTURE AT THE EXPENSE OF THE VENDOR AS NECESSARY; AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE TO EXECUTE THE AGREEMENT**

WHEREAS, the City of Modesto partners with various cellular service providers by leasing city property for cell towers, and

WHEREAS, these partnerships are a benefit to the residents of the City of Modesto by improving cellular service coverage throughout Modesto, improving coverage for the FCC mandated E911 Services, and also provide annual revenue to the City of Modesto to maintain the City park system, and

WHEREAS, on September 28, 2004, by Resolution No. 2004-495, Council approved a 5-year lease agreement with MetroPCS California, LLC, a Delaware limited liability company (MetroPCS) for 200 square feet as well as the use of 1 outfield baseball field lighting pole at Davis Park. This agreement included five (3) extensions of five (5) years each, and

WHEREAS, in early 2021, Metro-PCS California, LLC notified the City of their interest in amending the existing lease agreement to provide long-term site security, and

WHEREAS, the two parties have reach agreement on terms for and amendment, extending the lease agreement, and

WHEREAS, the amendment includes the following terms:

1. Term extension: Four (4) additional five (5) year renewal terms which would extend the final contract expiration term until November 30, 2044.
2. MetroPCS will continue to pay the City rent according to the existing contract for the remaining three years of the current contract term in the amount of \$2,654.88. Effective December 1, 2024, the rent will be increased to \$3,053.11 Monthly (\$36,637.32 annually) and increase at a rate of 3% each year thereafter.
3. Construction/Donation: MetroPCS intends to demolish the existing light standard utilized at Davis Park and replace it with a new light standard that has been engineered for the weight of the new antenna equipment and capable of continued use for sports field lighting. MetroPCS will handle the purchase and installation of the new tower, and the demolition of the current light standard, and when construction is complete, will donate the project to the city.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves approving a cell tower lease amendment at Davis Park with MetroPCS California, LLC, a Delaware limited liability company (MetroPCS), extending the maximum term of the Agreement through November 30, 2044 and authorizing the replacement of existing ball field lighting infrastructure at the expense of the vendor as necessary.

BE IT FURTHER RESOLVED, that the City Manager, or his designee, is hereby authorized to execute the agreement, in a form approved by the City Attorney.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 8th day of February, 2022, by Councilmember Kenoyer, who moved its adoption, which motion being duly seconded by Councilmember Zoslocki, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Escutia-Braaton, Kenoyer, Madrigal, Ricci, Wright, Zoslocki, Mayor Zwahlen

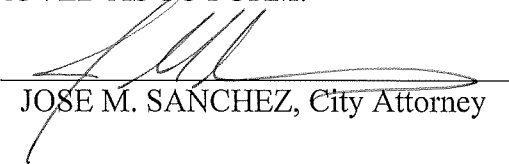
NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST:   
DANA SANCHEZ, Interim City Clerk

(SEAL)

APPROVED AS TO FORM:

BY:   
JOSE M. SANCHEZ, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2022-093**

**RESOLUTION APPROVING A FIRST AMENDMENT TO THE CELL TOWER  
LEASE AT CREEKSIDE GOLF COURSE WITH METROPCS CALIFORNIA,  
LLC, A DELAWARE LIMITED LIABILITY COMPANY (METROPCS),  
EXTENDING THE MAXIMUM TERM OF THE AGREEMENT THROUGH  
OCTOBER 31, 2044, AND AUTHORIZING THE CITY MANAGER, OR HIS  
DESIGNEE TO EXECUTE THE AGREEMENT**

WHEREAS, the City of Modesto partners with various cellular service providers by leasing city property for cell towers, and

WHEREAS, these partnerships are a benefit to the residents of the City of Modesto by improving cellular service coverage throughout Modesto, improving coverage for the FCC mandated E911 Services, and also provide annual revenue to the City of Modesto to maintain the City park system, and

On September 7, 2004, by Resolution No. 2004-440, Council approved a 5-year lease agreement with MetroPCS California, LLC, a Delaware limited liability company (MetroPCS) for 200 square feet of ground space at Creekside Golf Course for the construction of the communication facilities, including three (3) extensions of five (5) years each expiring October 31, 2024, and

WHEREAS, in early 2021, T-Mobile notified the City of their interest in amending the existing lease agreement to provide long-term site security, and

WHEREAS, the two parties have reach agreement on terms for and amendment, extending the lease agreement, and

WHEREAS, the amendment includes the following terms:

1. Term extension: Four (4) additional, five (5) year renewal terms which would extend the final contract expiration term until October 31, 2044.

2. Rent escalation: The City has requested a rent escalation of 3% annually on the anniversary of the amendment. MetroPCS will continue to pay the City rent according to the existing contract for the remaining three years of the current contract term in the amount of \$1,887.77. Effective November 1, 2024, the rent will be increased to \$2,135.48 Monthly (\$25,625.76 annually) and increase at a rate of 3% each year thereafter.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves a first lease amendment for cell tower at Creekside Golf Course with MetroPCS California, LLC, a Delaware limited liability company (MetroPCS), extending the maximum term of the Agreement through October 31, 2044.

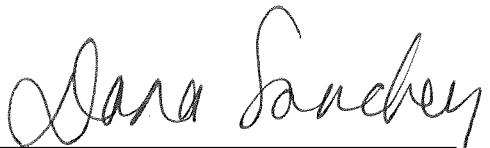
BE IT FURTHER RESOLVED, that the City Manager, or his designee, is hereby authorized to execute the agreement, in a form approved by the City Attorney.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 8th day of February, 2022, by Councilmember Kenoyer, who moved its adoption, which motion being duly seconded by Councilmember Zoslocki, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Escutia-Braaton, Kenoyer, Madrigal, Ricci, Wright, Zoslocki, Mayor Zwahlen

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST:   
DANA SANCHEZ, Interim City Clerk

(SEAL)

APPROVED AS TO FORM:

BY:   
JOSE M. SANCHEZ, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2022-094**

**RESOLUTION APPROVING THE PLANS AND SPECIFICATIONS FOR THE MODESTO MODULAR RELOCATION PROJECT, ACCEPTING THE BID AND AWARDING A CONTRACT TO HARRIS BUILDERS, INC. OF HILMAR, CA IN THE AMOUNT OF \$458,896 AND AUTHORIZING THE DIRECTOR OF UTILITIES TO APPROVE CHANGE ORDERS UP TO THE CUMULATIVE AMOUNT OF \$55,068 (12% OF THE ORIGINAL CONTRACT PRICE) IF NEEDED FOR A TOTAL AMOUNT NOT TO EXCEED \$513,964 AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE TO EXECUTE THE AGREEMENT**

WHEREAS, On January 26, 2016 the City of Modesto entered a Lease Agreement with the Boys & Girls Clubs of Stanislaus County, a California Non-Profit Public Benefit Corporation to allow temporary placement and use of a modular building at Dr. Martin Luther Park Jr. Park, formerly known as Mellis Park, located at 601 North Martin Luther King Drive, Modesto, California; and

WHEREAS, on December 31, 2020 the five (5) year term of use expired at Dr. Martin Luther King Jr. Park and on December 8, 2021 the City was awarded Proposition 68 funding in the amount of \$8,500,000 to renovate the entire park, including placing a splash pad amenity where the modular is currently sitting; and

WHEREAS, the City of Modesto is assisting the Boys & Girls Clubs of Stanislaus County with the design and construction for relocating the modular building to vacant park land south of the Dryden Park Golf Course parking lot; and

WHEREAS, March 23, 2016, by Purchase Order No. 198908, the City awarded the contract to complete the professional design services for the Modesto Modular Building Relocation to O'Dell Engineering, Inc.; and

WHEREAS, O'Dell Engineering, Inc. completed the construction documentation and professional design in fall of 2021; and

WHEREAS, the City Manager authorized the Purchasing Manager to issue formal Request for Bids (RFB) for the construction of the Modesto Modular Relocation Project; and

WHEREAS, on November 16, 2021, the Purchasing Division issued RFB 2022-17 for the Modesto Modular Building Relocation; and

WHEREAS, on December 14, 2021, bids were formally opened by the City Clerk and one vendor chose to respond, Harris Builders, Inc. of Hilmar, CA; and

WHEREAS, based on providing the only responsive and responsible bid, staff recommends the award of bid to Harris Builders, Inc. of Hilmar, CA; and

WHEREAS, Modesto Municipal Code Section 8-3.203 generally requires all purchases, which meet or exceed \$50,000 for material, equipment, or contractual services to be formally bid. Based on providing the lowest responsive and responsible bid, City staff recommends the award of bid for the construction of the Modesto Modular Building Relocation Project to Harris Builders Inc., from Hilmar California, which conforms to the Modesto Municipal Code, 8-3.203.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto approving the plans and specifications for the Modesto Modular Relocation Project, accepting the bid and awarding a contract to Harris Builders, Inc. of Hilmar, CA in the amount of \$458,896 and authorizing the Director of Utilities to approve change orders up to the cumulative amount of \$55,068 (12% of the original contract price) if needed for a total amount not to exceed \$513,964.

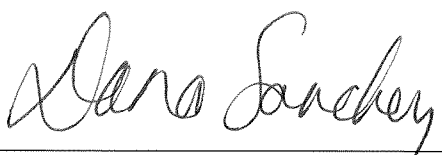
BE IT FURTHER RESOLVED that the City Manager, or his designee, is authorized to execute the agreement, in a form approved by the City Attorney.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 8th day of February, 2022, by Councilmember Kenoyer, who moved its adoption, which motion being duly seconded by Councilmember Zoslocki, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Escutia-Braaton, Kenoyer, Madrigal, Ricci, Wright, Zoslocki, Mayor Zwahlen


NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST:   
DANA SANCHEZ, Interim City Clerk

(SEAL)

APPROVED AS TO FORM:

BY:   
JOSE M. SANCHEZ, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2022-095**

**RESOLUTION AMENDING THE FISCAL YEAR 2021/22 CAPITAL IMPROVEMENT PROGRAM (CIP) BUDGET, PROJECT 101296 IN THE AMOUNT OF \$624,464 TO RECOGNIZE COMMUNITY DEVELOPMENT BLOCK GRANT (CDBG) FUNDING AND FUND THE PFI FIRST TEE ACTIVITY 1373 PROJECT CONSTRUCTION; AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO IMPLEMENT THE PROVISIONS OF THIS RESOLUTION**

WHEREAS, certain budgetary transactions are necessary in order to fund the move of the Boys and Girls Club Modular building from its current location at Dr. Martin Luther King Jr. Park to vacant park land south of the Dryden Park Golf Course parking lot; and

WHEREAS, the non-capital project #101296 (PFI First Tee Activity 1373) budget must be amended as shown in **Attachment A**, which is incorporated by reference herein.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby amends the Fiscal Year 2021/22 Capital Improvement Program (CIP) Budget, Project 101296 in the amount of \$624,464 to recognize Community Development Block Grant (CDBG) funding and fund the PFI First Tee Activity 1373 project construction as outlined in **Attachment A, attached** hereto.

BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to implement the provisions of this resolution.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 8th day of February, 2022, by Councilmember Kenoyer, who moved its adoption, which motion being duly seconded by Councilmember Zoslocki, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Escutia-Braaton, Kenoyer, Madrigal, Ricci, Wright, Zoslocki, Mayor Zwahlen

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST:   
DANA SANCHEZ, Interim City Clerk

(SEAL)

APPROVED AS TO FORM:

BY:   
JOSE M. SANCHEZ, City Attorney

## Exhibit A

### Budget Adjustment for Capital Project 101296 (PFI First Tee Activity 1373)

**Fund 3170 – Capital Grants - HUD CIP Projects:**

**Expense:**

**To:**

Task	Starting Amount	Increase/ (Decrease)	Ending Total
Construction (CON)	\$0	\$458,896	\$458,896
Construction Admin (CA)	\$0	\$55,068	\$55,068
Contingency (CTGY)	\$0	\$89,000	\$89,000
Engineering/Design/Administration (EDA)	\$49,500	\$21,500	\$71,000
<b>Total</b>	<b>\$49,500</b>	<b>624,464</b>	<b>673,964</b>

**Revenue/Transfer In:**

**To:**

Account	Starting Amount	Increase/ (Decrease)	Ending Total
Revenues: 1130-14015-42030-000000-01373-00000	\$49,500	\$0	\$49,500
Transfer In: 3170-14999-61130-101296-00000-00000	\$0	\$624,464	\$624,464
<b>Total</b>	<b>\$49,500</b>	<b>\$624,464</b>	<b>\$673,964</b>

**Transfers Out:**

**To:**

Account	Starting Amount	Increase/ (Decrease)	Ending Total
Transfer Out: 1130-71130-73170-000000-00000-00000	\$550,000	\$200,000	\$750,000
<b>Total</b>	<b>\$550,000</b>	<b>\$200,000</b>	<b>\$750,000</b>

**Total Change in Budgeted Revenues and Expenses:      \$624,464**

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2022-096**

**CONSIDER APPROVING AN AGREEMENT WITH BERRY, DUNN, MCNEIL, AND PARKER, LLC, FOR PROFESSIONAL SERVICES TO PREPARE A FUND DEVELOPMENT PLAN AND IMPLEMENTATION STRATEGY FOR THE PARKS, RECREATION, AND NEIGHBORHOODS DEPARTMENT IN THE AMOUNT OF \$49,999, PLUS A \$4,999 CONTINGENCY IF NEEDED, FOR AN AGREEMENT TOTAL NOT TO EXCEED \$54,998, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE AGREEMENT**

WHEREAS, the City’s Parks, Recreation and Neighborhoods Department (“Department”) serves the citizens of Modesto through quality recreational programming, welcoming community centers, active neighborhood engagement, cultural awareness events, inviting destinations and attractions, and planning and operation of the City’s vibrant park and trail systems; and

WHEREAS, the Department continues to face an increase in demand for facilities, services, and quality maintenance of its parks, trails, community centers, historical properties, and sports venues; and

WHEREAS, on October 14, 2021, the City issued an Informal Request for Proposals (RFP INF 22-04) for professional services for the preparation of a Fund Development Plan and Implementation Strategy; and

WHEREAS, on November 19, 2021, one proposal was received; and

WHEREAS, the sole proposal from GreenPlay, LLC, was found to be responsive and responsible; and

WHEREAS, on January 1, 2022, GreenPlay merged with Berry, Dunn, McNeil and Parker LLC; and

WHEREAS, the Agreement shall be in the amount of \$49,999, plus a ten percent (10%) contingency of \$4,999 if needed, for a total Agreement amount to not exceed \$54,998; and

WHEREAS, on January 10, 2022, the Safety and Communities Committee recommended the award of proposal and Agreement for the preparation of a Fund Development Strategy and Implementation Plan to Berry, Dunn, McNeil, and Parker, LLC, be forwarded to Council for approval; and

WHEREAS, the award of proposal and Agreement for the preparation of a Fund Development Strategy and Implementation for the Parks, Recreation and Neighborhoods Department to Berry, Dunn, McNeil, and Parker, LLC., conforms to Modesto Municipal Code 8-3.203.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby awards the proposal and Agreement, in an amount not exceed \$54,998, for the preparation of a Fund Development Strategy and Implementation Plan to Berry, Dunn, McNeil and Parker, LLC.

BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to execute the Agreement, in a form approved by the City Attorney.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 8th day of February, 2022, by Councilmember Kenoyer, who moved its adoption, which motion being duly seconded by Councilmember Zoslocki, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Escutia-Braaton, Kenoyer, Madrigal, Ricci, Wright, Zoslocki, Mayor Zwahlen

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST:   
DANA SANCHEZ, Interim City Clerk

(SEAL)

APPROVED AS TO FORM:

BY:   
JOSE M. SANCHEZ, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2022-097**

**RESOLUTION ACCEPTING AN UPDATE ON THE PARKS, RECREATION AND NEIGHBORHOOD DEPARTMENT ACCOUNTS AT THE STANISLAUS COMMUNITY FOUNDATION AND APPROVING THE RECOMMENDATIONS FOR ACCOUNT ADJUSTMENTS; AND AUTHORIZING THE DIRECTOR OF FINANCE, OR HER DESIGNEE, TO MAKE THE ACCOUNT ADJUSTMENTS**

WHEREAS, on February 25, 2003, by Resolution 2003-95 Council adopted Fund Development Strategies and Actions as recommended by PRND and directed staff to develop specific funding plans for corporate sponsorships, municipal marketing, naming rights, exclusive vendor/official supplier agreements and Friends of Parks foundation, and

WHEREAS, on December 14, 2004, by Resolution 2004-635, Council approved an agreement with the Stanislaus Community Foundation, a 501(c)(3) nonprofit organization governed by a board of private citizens chosen to represent the public interest, to qualify PRND for grants for which government agencies are typically ineligible, and

WHEREAS, prior to 2014, all revenue related to “Miscellaneous and Recreation” activity was housed in one account, and

WHEREAS, after 2014, this account was split into two accounts: Recreation and Miscellaneous; and each account contained several activities, and

WHEREAS, in 2016, staff reviewed the deposits and withdrawals in each account to determine how much revenue should be earmarked for each activity and created a multi-year project to track all revenue and expense activity for the Foundation accounts, and

WHEREAS, there are currently fourteen accounts held at the Foundation for PRND including the Miscellaneous and Recreation accounts noted in the table below with each of their balance as of November 30, 2021:

<b>Account Name</b>	<b>Account Balance as of 11.30.21</b>
Arch Preservation	\$34,761
Arts in Public Places	\$7,315
Centre Plaza	\$16,023
Dog Park	\$36,182
Grogan Park	\$109,374
Historical Cruise	\$10,052
Mayors Top Teens	\$32,413
Meadow Glen	\$6,314
<b>Miscellaneous – Various Activities</b>	<b>\$157,012</b>
Modesto Lions Park	\$68,257
Parade of Lights	\$350
Parks Preservation	\$63,683
<b>Recreation – Various Activities</b>	<b>\$96,451</b>
TRRP	\$17,271
Virginia Corridor	\$151,068
<b>Total</b>	<b>\$806,526</b>
<i>Foundation CIP Project – 100983 Parade of Lights</i>	\$350

, and

WHEREAS, staff has worked to identify and earmark specific amounts to each activity housed in the Miscellaneous and Recreation accounts and determined keeping any donations that could not be identified within their respective General accounts, and

WHEREAS, staff is recommending approval of the allocations noted below:

**Miscellaneous Account**

<b>Activity</b>	<b>Account Balance to Earmark</b>
Adopt-a-Tree	\$227
General Miscellaneous	\$19,037
Leisure Bucks	\$63,725
Night at the Bowl	\$36,345
Spirit of Giving	\$37,678

Volunteer Projects	\$0
<b>Total</b>	<b>\$157,012</b>

**Recreation Account**

<b>Activity</b>	<b>Account Balance to Earmark</b>
Breakfast with Santa	\$5,543
General Recreation	\$78,337
Junior Giants	\$11,051
Movie Night	\$1,520
<b>Total</b>	<b>\$96,451</b>

, and

WHEREAS, by assigning these funds to specific activities in their respective Foundation account, staff can use these funds starting with a beginning fund balance which will allow staff to plan for future development activities, and

WHEREAS, staff will determine procedures for future deposits to the Foundation accounts to specify and/or assign activities to each deposit.

NOW THEREFORE BE IT RESOLVED, by the Council of the City of Modesto that it hereby accepts an update on the Parks, Recreation and Neighborhood Department accounts at the Stanislaus Community Foundation and approves the recommendations for account adjustments.

BE IT FURTHER RESOLVED, that the Director of Finance, or her designee, is hereby authorized to make the account adjustments.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 8th day of February, 2022, by Councilmember Kenoyer, who moved its adoption, which motion being duly seconded by Councilmember Zoslocki, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Escutia-Braaton, Kenoyer, Madrigal, Ricci, Wright, Zoslocki, Mayor Zwahlen

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST:   
DANA SANCHEZ, Interim City Clerk

(SEAL)

APPROVED AS TO FORM:

BY:   
JOSE M. SANCHEZ, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2022-098**

**RESOLUTION APPROVING THE CITY OF MODESTO SOLID WASTE DIVISION TO APPLY FOR A NOTICE OF INTENT TO COMPLY WITH REGULATIONS SET IN SENATE BILL 1383 WHICH ALLOWS FOR THE CALIFORNIA DEPARTMENT OF RESOURCES RECYCLING AND RECOVERY (CALRECYCLE) TO DELAY ADMINISTRATIVE CIVIL PENALTIES FOR NON-COMPLIANCE**

WHEREAS, the California Department of Resources Recycling and Recovery (CalRecycle), in consultation with the California Air Resources Board, has adopted regulatory requirements (Regulations), consistent with the mandate of Senate Bill (SB) 1383 (Lara, 2016), that are designed to achieve the organic waste reduction goals established in Section 39730.6 of the Health and Safety Code through a 50 percent reduction in the level of the statewide disposal of organic waste from the 2014 level by 2020 and a 75 percent reduction in the level of the statewide disposal of organic waste from the 2014 level by 2025; and

WHEREAS, the City of Modesto is a local jurisdiction required to comply with the Regulations; and

WHEREAS, the City of Modesto is or expects to be facing continuing violations of the Regulations commencing during the 2022 calendar year; and

WHEREAS, Senate Bill 619 (Laird, 2021), through amendments to Section 42652.5 of the Public Resources Code (Statute), created a mechanism called a Notification of Intent to Comply through which a local jurisdiction may secure administrative civil penalty relief from any continuing violations of the Regulations for the 2022 calendar year and may be eligible for a broader and longer-term regulatory compliance path, including suspended administrative civil penalties, through a corrective

action plan; and

WHEREAS, the City of Modesto is a local jurisdiction authorized by the Statute to submit a Notification of Intent to Comply for CalRecycle approval; and

WHEREAS, CalRecycle shall approve a Notification of Intent to Comply that is duly adopted by the jurisdiction by formal written resolution and meets the requirements of the Statute; and

WHEREAS, the City of Modesto authorizes and directs Public Works staff on its behalf, to submit the Notification of Intent to Comply **attached** as **Exhibit “A”** to CalRecycle for approval pursuant to the Statute; and

WHEREAS, by submitting the Notification of Intent to Comply pursuant to and subject to the above referenced requirements, the City of Modesto represents and certifies that it will implement the proposed actions to remedy the violations according to the proposed schedule as approved by CalRecycle and in accordance with the Statute and Regulations; and

WHEREAS, the City of Modesto also acknowledges and agrees to comply with any maximum compliance deadline in any corrective action plan that CalRecycle, in its sole discretion, determines to be necessary and appropriate under the circumstances for the correction of any violation(s) of the Statute and Regulations identified in its Notification of Intent to Comply.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby formally adopts the Notification of Intent to Comply **attached** as **Exhibit “A.”**

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 8th day of February, 2022, by Councilmember Kenoyer, who moved its adoption, which motion being duly seconded by Councilmember Zoslocki, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Escutia-Braaton, Kenoyer, Madrigal, Ricci, Wright, Zoslocki, Mayor Zwahlen

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST:   
DANA SANCHEZ, Interim City Clerk

(SEAL)

APPROVED AS TO FORM:

BY:   
JOSE M. SANCHEZ, City Attorney

# Notification of Intent to Comply

CalRecycle is providing this optional form as a convenience to assist jurisdictions (counties, cities, a county and city, or special districts providing solid waste collection services) for purposes of submitting a notification of intent to comply to CalRecycle [see Public Resources Code (PRC) section 42652.5(c)].

A jurisdiction may submit a notification of intent to comply if it is facing continuing violations of the Short-lived Climate Pollutants: Organic Waste Reductions requirements in Title 14 California Code of Regulations (14 CCR). The written notification of intent to comply, adopted by resolution of the jurisdiction's governing body, shall be sent to CalRecycle no later than **March 1, 2022**, to [NOIC@CalRecycle.ca.gov](mailto:NOIC@CalRecycle.ca.gov).

A jurisdiction shall, at minimum, include the following in its notification:

1. A description, with specificity, of the continuing violations.
2. A detailed explanation of the reasons, supported by documentation, why the local jurisdiction is unable to comply.
3. A description of the impacts of the COVID-19 pandemic on compliance.
4. A description of the proposed actions the local jurisdiction will take to remedy the violations within the timelines established in 14 CCR section 18996.2 with a proposed schedule for doing so. The proposed actions shall be tailored to remedy the violations in a timely manner.

Upon approval by CalRecycle of a jurisdiction's notification and implementation of the intent to comply, a jurisdiction may be eligible for both of the following:

1. Administrative civil penalty relief for the 2022 calendar year pursuant to PRC section 42652.5(d).
2. A corrective action plan pursuant to 14 CCR section 18996.2.
  - a. CalRecycle may address through a corrective action plan any violations disclosed in a jurisdiction's notification that will take more than 180 days to correct. In this situation, the proposed actions and schedule in the jurisdiction's approved notification will be in effect until a corrective action plan is issued.

CalRecycle will respond in writing to a jurisdiction within 45 business days of receiving its notification with an approval, disapproval, request for additional information, or timeline for a decision on approval or disapproval. CalRecycle will include details about why a jurisdiction did not meet the requirements for a Notification of Intent to Comply when disapproving the jurisdiction's notification.

Please clearly print or type responses. Attach additional pages as necessary.

Jurisdiction Name: City of Modesto

County: Stanislaus County

Person Completing the Form:

First Name: Myriah

Last Name: Hill

Title: Solid Waste Administrative Services Technician

Mailing Address: PO Box 642

City: Modesto

Zip Code: 95353

Email Address: mhill@modestogov.com

Phone Number: 209-577-5458

1. Select using the check boxes below or write in the continuing violations for each applicable regulatory section. For each selection, please describe the specific violations related to the regulatory section.

**Example:**

- (B) 14 CCR section 18984.1 Three-Container Organic Waste Collection Services
- i. Not implementing mandatory residential foodwaste collection for all residents. Note: City already provides mandatory greenwaste collection to all residents*
  - ii. Not implementing mandatory commercial organics collection for all businesses under 2 cubic yards. Note: City already provides mandatory commercial organics collection to all businesses 2 cubic yard or more.*

**Disclaimer: The list of possible continuing violations below is not inclusive of all potential violations of the regulations.**

- (A) 14 CCR section 18984 Combined Organic Waste Collection Services. *This requirement is not included since the requirements are further specified in sections 18984.1-18984.11.*
- (B) 14 CCR section 18984.1 Three-Container Organic Waste Collection Services
- (C) 14 CCR section 18984.2 Two-Container Organic Waste Collection Services
- (D) 14 CCR section 18984.3 Unsegregated Single Container Collection Services
- (E) 14 CCR section 18984.4 Recordkeeping Requirements for Compliance with Organic Waste Collection Services
- (F) 14 CCR section 18984.5 Container Contamination Minimization
- (G) 14 CCR section 18984.6 Recordkeeping Requirements for Container Contamination Minimization
- (H) 14 CCR section 18984.7 Container Color Requirements
- (I) 14 CCR section 18984.8 Container Labeling Requirements
- (J) 14 CCR section 18984.11 Waivers Granted by a Jurisdiction
- (K) 14 CCR section 18985.1. Organic Waste Recovery Education and Outreach.
- (L) 14 CCR section 18985.2. Edible Food Recovery Education and Outreach
- (M) 14 CCR section 18985.3. Recordkeeping Requirements for a Jurisdiction's Compliance with Education and Outreach Requirements
- (N) 14 CCR section 18988.1. Jurisdiction Approval of Haulers and Self-Haulers
- (O) 14 CCR section 18988.3. Self-haulers of Organic Waste
- (P) 14 CCR section 18988.4. Recordkeeping Requirements for Compliance with Jurisdiction Hauler Program
- (Q) 14 CCR section 18989.1. CALGreen Building Codes
- (R) 14 CCR section 18989.2 Model Water Efficient Landscape Ordinance

- (S) 14 CCR section 18991.1. Jurisdiction Edible Food Recovery Program
- (T) 14 CCR section 18991.2. Recordkeeping Requirements for Jurisdiction Edible Food Recovery Program
- (U) 14 CCR section 18992.1. Organic Waste Recycling Capacity Planning
- (V) 14 CCR section 18992.2. Edible Food Recovery Capacity
- (W) 14 CCR section 18993.1. Recovered Organic Waste Product Procurement Target
- (X) 14 CCR section 18993.2. Recordkeeping Requirements for Recovered Organic Waste Procurement Target
- (Y) 14 CCR section 18993.3. Recycled Content Paper Procurement Requirements
- (Z) 14 CCR section 18993.4. Recordkeeping Requirements for Recycled Content Paper Procurement
- (AA) 14 CCR section 18994.2. Jurisdiction Annual Reporting  
*Note: This requirement is not included since jurisdictions are still expected to report to CalRecycle.*
- (BB) 14 CCR section 18995.1. Jurisdiction Inspection Requirements  
*Note: Section 18995.1(a)(1) should not be included because a jurisdiction should already be completing this action due to the requirements of PRC Chapter 12.9 (commencing with Section 42649.8)*
- (CC) 14 CCR section 18995.2. Implementation Record and Recordkeeping Requirements
- (DD) 14 CCR section 18995.3. Jurisdiction Investigation of Complaints of Alleged Violations  
*Note: This requirement is not included since jurisdictions are still expected to investigate complaints.*
- (EE) 14 CCR section 18995.4. Enforcement by a Jurisdiction

Use the check box(es) below to write in the continuing violations for any regulatory section(s) not reflected above and describe the specific violations related to the regulatory section.

**Example:**

- (1) (Type regulatory section number) (Type regulatory section title)
  - i. Describe the specific violations related to the regulatory section

- (1)
- (2)
- (3)
- (4)
- (5)

2. A detailed explanation of the reasons why the jurisdiction is unable to comply, supported by documentation, if applicable.

3. A description of the impacts of the COVID-19 pandemic on compliance.

4. Provide a description of the proposed actions the jurisdiction will take to remedy the violations with a proposed schedule for completing each action. The proposed actions shall be tailored to remedy the violations in a timely manner. See optional format below.

I hereby certify under penalty of perjury that the information provided herein is true and correct to the best of my knowledge.



-----  
Signature

Myriah Hill

-----  
Printed Name

Administrative Services  
Technician II

-----  
Title

1/14/2022

-----  
Date

Description of the proposed actions with proposed schedules the jurisdiction will take to remedy the violations. The proposed actions shall be tailored to remedy the violations in a timely manner.

Regulatory Requirement and Description	
Action	Proposed Schedule
TASK 1:	Date to be completed:
TASK 2:	Date to be completed:
TASK 3:	Date to be completed:

Regulatory Requirement and Description	
Action	Proposed Schedule
TASK 1:	Date to be completed:
TASK 2:	Date to be completed:

**EXAMPLE**

Regulatory Requirement: (B.i.) 14 CCR section 18984.1 Three-Container Organic Waste Collection Services	
Description: Not implementing mandatory residential foodwaste collection for all residents. Note: City already provides mandatory greenwaste collection to all residents	
Action	Proposed Schedule
TASK 1: <i>Purchase two additional collection trucks and modify collection routes</i>	Date to be completed: <i>4/7/2022</i>
TASK 2: <i>The city will work with its hauler to find a facility to accept mixed organic waste.</i>	Date to be completed: <i>4/14/2022</i>

Regulatory Requirement: (B.ii.) 14 CCR section 18984.1 Three-Container Organic Waste Collection Services	
Description: Not implementing mandatory commercial organics collection for all businesses under 2 cubic yards. Note: City already provides mandatory commercial organics collection to all businesses 2 cubic yard or more.	
Action:	Proposed Schedule
TASK 1: <i>Purchase two additional collection trucks and modify collection routes</i>	Date to be completed: <i>4/21/2022</i>
TASK 2: <i>The city will work with its hauler to acquire and distribute appropriate containers to all commercial accounts. The city will obtain monthly reports from the hauler to monitor full distribution of carts.</i>	Date to be completed: <i>4/28/2022</i>

The City of Modesto operates a two-container waste collection system, with one green container for organic waste and one black container for household trash. The waste from the organic container, which includes yard, paper, and food waste, is collected by the City's contracted haulers, minimally sorted at their respective transfer stations, and processed at the City's Compost Facility; garbage from the black can is similarly collected and delivered to a transfer station, then processed at Covanta's waste to energy plant or landfilled.

As of March 1, 2022, the City has reached the following compliance milestones concerning SB 1383:

- The City of Modesto adopted amendments and additions to the municipal code on November 23, 2021 that complied with SB 1383.
- The City has identified Tier 1 and Tier 2 businesses, as well as the food recovery locations that operate within Modesto. The City is working with a design consultant to create an initial education and outreach campaign for applicable businesses.
- The City collects organic waste, including yard, paper, and food waste, from residential and commercial customers. That waste is processed at the Compost Facility and used by or sold back to the City or community members and organizations. This organic recycling program has been in place since 2008.
- The City of Modesto's Procurement and Environmental Preferable Purchasing Policy requires that all paper purchases be at least 30% post-consumer recycled content. All other things being equal, City policy defers to purchasing recycled material over products made of new materials.
- The City of Modesto's contracted haulers, Gilton Solid Waste and Bertolotti Disposal, are responsible for checking cans for contamination and tagging any with unacceptable materials while servicing their routes. Residential or commercial accounts who are tagged have their service suspended until they remove the material and the container is inspected by City code enforcement staff. The City conducts organic container inspections regularly, inspecting roughly 4,000 containers per year. Containers that are found contaminated receive a \$100 citation and educational material related to organic recycling.
- The City is compliant with AB 341 and AB 1826 using business information from December 2021; the City updates eligible businesses annually. Concerning mandatory commercial recycling under AB 341, 100% of eligible businesses have a compliant recycling program. Concerning commercial organic recycling under AB 1826, 97.7% of eligible businesses have a compliant organic recycling program. Noncompliant business were issued notice of violations or resent forms.

On June 22, 2021 through Modesto City Council Resolution 2021-227, the City went into agreement with R3 Consulting Group Inc. to provide the following services related to SB 1383:

- Identify areas that the City's current programs and operations do not meet compliance
- Provide options for implementation of compliance, including collection methods, procurement targets, and residential and commercial service

- Create outline of the resources needed to reach full compliance, both financial and staffing
- Provide an overview of the necessary monitoring and reporting systems

R3 provided initial drafts to the City in December 2021 and the City anticipates taking recommendations to City Council April 5, 2022. At this time, early estimates of solid waste program changes include the possibility of an additional container for collection, extensive sorting and recovery by the City's haulers, and numerous improvements to the City's Compost Facility in order to meet requirements. Given the timeline of the consultant report, the decisions City Council must make regarding how this jurisdiction elects to proceed under the legislation, and the time needed to implement any changes, the City is not fully in compliance with SB 1383 as of January 2022. The following are areas that the City has identified as a potential violation:

**C. 14 CCR Section 18984.2 Two-Container Organic Waste Collection Services**

**(a) A jurisdiction may comply with the requirements of this article by implementing a two-container organic waste collection service providing a green container and a blue container to each generator**

Note: The City is compliant in the collection of residential waste, but does not require organic collection with all commercial accounts, including multifamily.

1. A detailed explanation of the reasons why the jurisdiction is unable to comply, supported by documentation, if applicable.

The City of Modesto has offered organics collection, including yard, paper, and food waste, to residential and commercial accounts since 2008. While residential accounts automatically include organics collection, commercial accounts must choose to add an organic container to their service. For businesses that meet the minimum threshold for AB 1826, they've been required to either begin organics collection service, have a landscaper dispose of organic waste if that is all they produce, or are granted a waiver if they do not produce a reasonable amount. All businesses that produce food or have dining on-site are required to have an organic disposal bin and the City monitors this through AB 1826.

The City is working with a solid waste planning and compliance consultant to explore collection method options in compliance with SB 1383 and expects approval and adoption in July 2022 following a decision by City Council between two collection methods: 1) two-container service with increased post-collection sorting or 2) adding a third container for recyclables. Following these changes, the City will require all commercial accounts that do not currently have an organic program to begin organic recycling service, focusing especially on multifamily accounts. The City has elected to delay this implementation for commercial accounts in order to implement both organic and other recycling at the same time, if that collection method is selected.

At this time, the City's contracted haulers only offer organic recycling service to commercial accounts in four-yard or larger bins. The City recognizes that this is not a practical size for businesses that only receive four-yards or less of total waste collection weekly and is negotiating an alternative with our haulers.

2. A description of the impacts of the Covid-19 pandemic on compliance.

The Covid-19 pandemic presents challenges to the launch of a commercial organic recycling program. Primarily, the City recognizes that to best meet the intent of SB 1383, staff needs to meet with commercial account holders, review their waste needs, and observe their current waste storage areas. With this information, City staff can help commercial accounts find the best way to meet compliance. This type of personal contact has been discouraged during the pandemic out of caution for our staff. Additionally, the frequent turnover of employees and repeated opening and closing of restaurants has led to general confusion among those restaurants that already have an organic recycling program, meaning that staff time has been disproportionately spent with our existing programs to address contamination.

The City also would require our contracted haulers to acquire more commercial bins and residential containers to accommodate the additional service needs of commercial accounts who begin organic recycling. Given supply-chain issues during the last two years, shortages of all collection containers were observed by the haulers and the City delayed requiring them to increase their need during this time.

3. Provide a description of the proposed actions the jurisdiction will take to remedy the violations with a proposed schedule for completing each action. The proposed actions shall be tailored to remedy the violations in a timely manner.

The City expects approval and adoption of SB 1383 compliance collection methods in July 2022 following recommendations from our consultant and decision by City Council. Once citywide collection methods are determined, the City will contact all commercial accounts that do not currently have organic recycling service and notify them of the requirement to do so. The City has roughly 2,900 commercial accounts and anticipates that a third of them will have questions, concerns, or objections to adding another collection bin. This means that staff will need to accommodate roughly 967 accounts that require additional information or inspections. Additional funding acquired in a SB 1383 fee added to the garbage rate in July 2022 is meant to meet this staffing need.

- If the City keeps its current collection method of two containers and increases post-collection sorting:
  - The City will require all commercial accounts without a reasonable cause for waiver to start organic recycling service and will work with accounts to provide education and outreach. The City anticipates that post-collection sorting will assist with accounts that require a waiver by recovering organic waste for processing.
- If the City adopts a three-container system with an additional container for recyclables:
  - Additional containers and trucks would need to be purchased to adopt a three-container system. Current wait times for both of these products are about 18 months, according to inquiries by haulers to their respective vendors.
  - Once containers are available, the City would conduct a four-month education and outreach program. The City anticipates this program would be operational by the end of 2023. The City anticipates that post-collection sorting will assist with accounts that require a waiver by recovering organic waste for processing.

**Regulatory Requirement and Description: Keep 2-container system**

<b>Action</b>	<b>Proposed Schedule</b>
Task 1: Recommendations to City Council concerning program changes to reach compliance with SB 1383	April 2022
Task 2: Decision and rate changes for collection methods take effect	July 2022

Task 3: Outreach for commercial account requirements and implementation of required organic recycling program	July 2023
<b>Regulatory Requirement and Description: Add a recycling container for 3 total</b>	
<b>Action</b>	<b>Proposed Schedule</b>
Task 1: Recommendations to City Council concerning program changes to reach compliance with SB 1383	April 2022
Task 2: Decision and rate changes for collection methods take effect	July 2022
Task 3: Order necessary containers, trucks, labels, and other supplies	December 2022
Task 4: Outreach for commercial account requirements and implementation of required organic recycling program	December 2023

## **I. 14 CCR Section 18984.8 Container Labeling Requirements**

### **(1) Placing labels on containers that include language or graphic images or both that indicate the primary materials accepted and the primary materials prohibited in that container**

Note: The City has an appropriate label for the organic container, but not for the non-organic waste container at this time.

1. A detailed explanation of the reasons why the jurisdiction is unable to comply, supported by documentation, if applicable.

The City has a two-container collection system, one for organic waste and one for household trash. The organic waste container accepts yard trimmings, paper waste, and food waste. Attachment A is the two stickers found on organic containers in the City: the first was applied beginning in 2008, and the second was redesigned and applied on new containers beginning in 2019. The City paused application of the sticker in March 2020 due to Covid-19 concerns and resumed in February 2022; haulers have continued to apply the sticker to all new or replaced containers in service during this time.

The City's black container is not currently labeled or stickered with acceptable or unacceptable waste. The City anticipates receiving recommendations in April 2022 on collection methods from a consultant reviewing SB 1383 compliance. Because those recommendations could affect the material accepted in the trash container, the City is waiting to design and apply stickers to black containers. Following collection method adoption, anticipated in July 2022, the City can begin designing new labels that adhere with SB 1383.

2. A description of the impacts of the Covid-19 pandemic on compliance.

The City delayed applying organic container stickers during Covid-19 out of caution for the safety of our staff. Whenever possible, City policy has limited exposure to waste or waste containers and to public interaction as a pandemic precaution. Sticker application resumed in February 2022 with increased personal protective equipment.

3. Provide a description of the proposed actions the jurisdiction will take to remedy the violations with a proposed schedule for completing each action. The proposed actions shall be tailored to remedy the violations in a timely manner.

The City expects approval and adoption of SB 1383 compliance collection methods in July 2022 following recommendations from our consultant and decision by City Council. Two collection methods are being considered: 1) keeping current methods and increasing post-collection sorting or 2) adding a third container for recyclables. Once collection methods are determined, labels that comply with SB 1383 requirements will be developed.

Given that Modesto has 57,000 residential customers and 2,900 commercial accounts, we anticipate the following timeline related to container labeling:

- If the City keeps its current collection method of two containers and increases post-collection sorting:
  - Labels for the current collection method could be created and printed by the end of 2022, and applied throughout 2023. The City anticipates the majority of containers would be appropriately labeled by the end of 2023.
- If the City adopts a three-container system with an additional container for recyclables:
  - Additional containers and trucks would need to be purchased to adopt a three-container system. Current wait times for both of these products are about 18 months, according to inquiries by haulers to their respective vendors.
  - Once containers are available, the City would conduct a four-month education and outreach program, develop stickers, and could apply them while delivering the new containers. The City anticipates the majority of containers would be delivered and appropriately labeled by July 2024.

**Regulatory Requirement and Description: Keep 2-container system**

<b>Action</b>	<b>Proposed Schedule</b>
Task 1: Recommendations to City Council concerning program changes to reach compliance with SB 1383	April 2022
Task 2: Decision and rate changes for collection methods take effect	July 2022
Task 3: Labels created and printed	December 2022
Task 4: Work with haulers to apply labels	December 2023

**Regulatory Requirement and Description: Add a recycling container for 3 total**

<b>Action</b>	<b>Proposed Schedule</b>
Task 1: Recommendations to City Council concerning program changes to reach compliance with SB 1383	April 2022
Task 2: Decision and rate changes for collection methods take effect	July 2022
Task 3: Order necessary containers, trucks, labels, and other supplies	December 2023
Task 4: Work with haulers to distribute supplies related to new collection method	July 2024

**W. 14 CCR Section 18993.1 Recovered Organic Waste Product Procurement Target**

**(a) Except as otherwise provided, commencing January 1, 2022, a jurisdiction shall annually procure a quantity of recovered organic waste products that meets or exceeds its current annual recovered organic waste product procurement target as determined by this article.**

**AND**

**X. 14 CCR Section 18993.2 Recordkeeping Requirements for Recovered Organic Waste Product Procurement Target**

**(a) A jurisdiction shall include all documents supporting its compliance with this article in the implementation record required by section 18995.2 of this chapter**

Note: The City will report on any donations it makes from the Compost Facility in an effort to meet the assigned procurement target, but does not anticipate meeting the target at this time.

1. A detailed explanation of the reasons why the jurisdiction is unable to comply, supported by documentation, if applicable.

CalRecycle provided the City of Modesto a procurement target of 17,216 tons in 2022. The City could achieve this target by donating the compost produced at its Compost Facility, which accepts waste from organic container collection, street side collection, and through City maintenance of parks or City trees. At this time, compost has well over 1% contamination due to poor sorting by residential and commercial customers and little removal of contaminants by haulers or the Compost Facility. This results in compost that has visible plastic and glass contamination and is not desirable for City projects or consumers in landscaping or farming. At this time, the City is unable to donate or give away the required tons to meet compliance.

2. A description of the impacts of the Covid-19 pandemic on compliance.

The City's Compost Facility equipment averages 12 years of use. While breakdowns requiring repairs and new parts are common on equipment of this age, Covid-19 caused supply chain issues that severely exacerbated the time it took to conduct these repairs. Parts took three to four times as long to acquire and staff sick time in the City's Fleet Department caused repairs to take at least eight weeks for each instance. Down equipment and staff shortages led to reduced processing at the Compost Facility for the majority of the last two years.

3. Provide a description of the proposed actions the jurisdiction will take to remedy the violations with a proposed schedule for completing each action. The proposed actions shall be tailored to remedy the violations in a timely manner.

The City's Compost Facility is exploring improvements to facility infrastructure and processing that could drastically remove contaminants. Further, the City is working with haulers to include sorting and cleaning of organic waste after collection to limit the amount of plastics and glass that are accepted at the facility with organics. These two efforts, in conjunction with increased education and enforcement prior to collection, will cost the City

nearly \$12 million in total investments. These changes would need to be adopted over the next five years to spread the cost out to rate-payers and allow the facility to accept and process clean material for donation.

At this time, the City anticipates processing some clean material that will be available for donation in 2024 and will not meet procurement targets until reporting in 2027.

**Regulatory Requirement and Description**

<b>Action</b>	<b>Proposed Schedule</b>
Task 1: Public Works Director presents improvement plan to City Council for consideration	June 2022
Task 2: With City Council approval, begin procurement of necessary equipment to clean and process organic waste	July 2022
Task 3: Given six months processing for clean material to yield clean compost, donations can begin in 2024	December 2024
Task 4: Equipment, infrastructure, and processing improvements completed, allowing the facility to meet procurement targets through donation	December 2027

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2022-099**

**RESOLUTION APPROVING THE SOLE SOURCE PURCHASE AGREEMENT WITH XYLEM WATER SOLUTIONS, CHARLOTTE, NC, FOR THE PROCUREMENT OF ULTRAVIOLET (UV) LAMPS AND PARTS FOR AN ESTIMATED ANNUAL AMOUNT OF \$50,000 AND A TOTAL AMOUNT NOT TO EXCEED \$250,000 OVER FIVE YEARS, AND AUTHORIZING THE PURCHASING MANAGER, OR HER DESIGNEE, THE ABILITY TO ADD PARTS BASED ON THE DEPARTMENT'S NEEDS, ENSURING THE TOTAL AMOUNT DOES NOT EXCEED THE AUTHORIZED TOTAL, AND AUTHORIZING THE DIRECTOR OF FINANCE, OR HER DESIGNEE, TO EXECUTE THE AGREEMENT**

WHEREAS, the City uses a tertiary treatment process for its wastewater, which utilizes several different types of equipment requiring specific parts that are only available from a single vendor, and

WHEREAS, on November 23, 2021, staff brought to City Council an agreement with Trojan UV for the purchase of UV lamps for the Phase 2 Tertiary Plant, and

WHEREAS, the Phase 1 of Tertiary Treatment process also uses similar UV lamps as part of the disinfection of wastewater, but under a separate vendor, and

WHEREAS, these lamps have a lifetime of 12,000 hours each; there are currently 120 lamps that are ordered through Xylem Water Solutions USA Inc., Charlotte, NC, (Xylem), and

WHEREAS, the UV lamps at Phase 1 are a specialized system component that must be purchased and contracted from a Wedeco supplier in order to meet equipment specifications and maintain equipment performance, and

WHEREAS on March 7, 2017, by Resolution 2017-94, Council authorized a two-year agreement with three one-year extension options for the sole source procurement of

UV lamps with Xylem for an average estimated annual cost of \$39,392 and over five years of \$198,556, and

WHEREAS, the Modesto Municipal Code Section 8-3.203 generally requires all purchases, in excess of fifty thousand dollars (\$50,000) to follow formal bid procedures. However, MMC Section 8-3.204(b) provides that a purchase may be exempted from the City's formal bidding requirement where the Purchasing Agency's requirements can be met solely by a single article or process. Additionally, the purchase of UV lamps and parts from Xylem should be exempt from the formal bidding procedure in accordance with Modesto Municipal Code 8-3.204(b) because Xylem is the sole distributor for Wedeco parts. Therefore, this purchase qualifies for exemption from the formal bidding procedures.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the sole source purchase agreement with Xylem Water Solutions, Charlotte, NC, for the procurement of Ultraviolet (UV) lamps and parts for an estimated annual amount of \$50,000 and a total amount not to exceed \$250,000 over five years.

BE IT FURTHER RESOLVED that the Purchasing Manager, or her designee, is authorized to add parts based on the department's needs, ensuring the total amount does not exceed the authorized total.

BE IT FURTHER RESOLVED that the Director of Finance, or her designee, is authorized to execute the agreement.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 8th day of February, 2022, by Councilmember Kenoyer, who moved its adoption, which motion being duly seconded by Councilmember Zoslocki, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Escutia-Braaton, Kenoyer, Madrigal, Ricci, Wright, Zoslocki, Mayor Zwahlen

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST:   
DANA SANCHEZ, Interim City Clerk

(SEAL)

APPROVED AS TO FORM:

BY:   
JOSE M. SANCHEZ, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2022-100**

**RESOLUTION APPROVING AN AMENDMENT TO THE MODESTO URBAN  
AREA GENERAL PLAN TO CHANGE THE DESIGNATION OF  
APPROXIMATELY 23 ACRES OF LAND IN THE IN THE FAIRVIEW  
VILLAGE SPECIFIC PLAN AREA FROM C, COMMERCIAL, TO VR,  
VILLAGE RESIDENTIAL**

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, 2003-101, 2003-122, 2004-233, 2005-70, 2007-066, 2007-599, 2008-142, 2008-583, 2009-419, 2011-253, 2011-254, 2011-435, 2012-430, 2014-17, 2014-422, 2015-262, 2016-34, 2017-21, and 2019-109 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, and

WHEREAS, STL Company LLC has applied for an amendment to the General Plan to change the land designated C, Commercial, in the Fairview Village Specific Plan to VR, Village Residential, and

WHEREAS, the Community & Economic Development Department has analyzed the proposed amendment and concluded that the proposed General Plan amendment will allow flexibility for development to respond to market conditions, consistent with the Village Residential designation, and

WHEREAS, a Final Master Environmental Impact Report was prepared for the Urban Area General Plan Update (SCH No. 2014042081) which analyzed the potential environmental effects of the proposed Project, and

WHEREAS, on December 20, 2021, the Planning Commission held a duly noticed public hearing in the Tenth Street Place Chambers located at 1010 Tenth Street, Modesto, California, relating to this proposed amendment to the Modesto Urban Area General Plan to change the designation on approximately 23 acres of land from C, Commercial, to VR, Village Residential, and

WHEREAS, after said public hearing, the Planning Commission adopted Resolution No. 2021-21, recommending to the City Council an amendment to the Modesto Urban Area General Plan to change the designation on approximately 23 acres of land from R, Residential to C, Commercial, and

WHEREAS, said matter was set for a public hearing of the City Council to be held on February 8, 2022, 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 to change the designation on approximately 23 acres of land from C, Commercial, to VR, Village Residential.

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 General Plan to as described in **Exhibit “A”**, **attached** hereto and incorporated herein by reference, is required for the public health, safety, and welfare of the citizens of Modesto.

BE IT FURTHER RESOLVED by the Council of the City of Modesto that it hereby adopts the proposed amendment to the Urban Area General Plan as described in **Exhibit "A", attached** hereto and incorporated herein by reference.

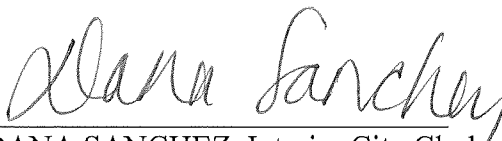
BE IT FURTHER RESOLVED that the project applicant shall indemnify, defend, and hold harmless the City of Modesto, its agents, officers, and employees from any and all claims, actions, or proceedings against the City of Modesto, its agents, officers, and employees to attack, set aside, void, or annul, any approval by the City of Modesto and its advisory agency, appeal board, or a legislative body concerning the general plan amendment for the Property. The City of Modesto shall promptly notify the applicant of any claim, action, or proceeding.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 8th day of February, 2022, by Councilmember Madrigal, who moved its adoption, which motion being duly seconded by Councilmember Wright, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Escutia-Braaton, Kenoyer, Madrigal, Ricci, Wright, Zoslocki, Mayor Zwahlen

NOES: Councilmembers: None

ABSENT: Councilmembers: None

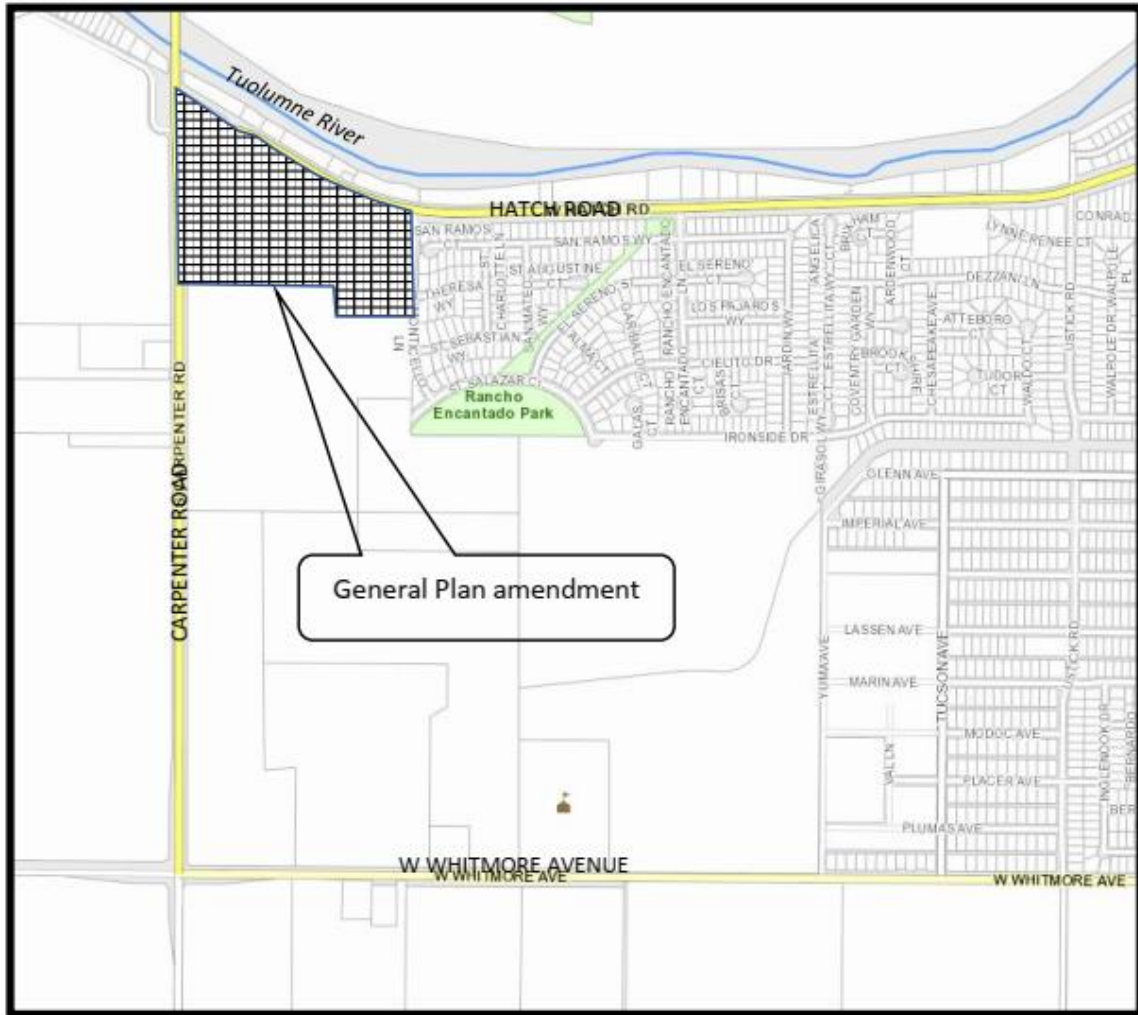
ATTEST:   
DANA SANCHEZ, Interim City Clerk

(SEAL)

APPROVED AS TO FORM:

BY:   
JOSE M. SANCHEZ, City Attorney

# EXHIBIT A



**MODESTO CITY COUNCIL  
RESOLUTION NO. 2022-101**

**RESOLUTION APPROVING AMENDMENT NO. 4 TO THE FAIRVIEW  
VILLAGE SPECIFIC PLAN TO MAKE THE SPECIFIC PLAN CONSISTENT  
WITH POLICIES IN THE URBAN AREA GENERAL PLAN, CHANGE THE  
LAND USE AND CIRCULATION PLANS, AND MAKE OTHER REVISIONS**

WHEREAS, on December 12, 1995, the City Council by Resolution No. 95-584, adopted the Fairview Village 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, on March 18, 1997, the City Council by Resolution No. 97-135 adopted Amendment No. 1 to the Fairview Village Specific Plan, and

WHEREAS, on March 18, 1997, the City Council by Resolution No. 97-138 adopted Amendment No. 2 to the Fairview Village Specific Plan, and

WHEREAS, on November 4, 1997, the City Council by Resolution No. 97-622 adopted Amendment No. 3 to the Fairview Village Specific Plan, and

WHEREAS, STL Company LLC has filed an application to amend the Land Use Plan of the Fairview Village Specific Plan to change the land use designation of approximately 23 acres located southeast of the intersection of Hatch Road and Carpenter Road from Commercial (C) to Village Residential (VR) and the Circulation Plan to realign connector streets, ensure adequate area for the planned elementary school, neighborhood park, and central stormwater drainage basin, increase connectivity to the external roadway network, establish an agricultural preservation policy and other policies consistent with the General Plan and make other minor amendments, and

WHEREAS, on October 8, 2021, the proposed Annexation, General Plan Amendment, and Specific Plan Amendment were referred to Modesto City Schools, Modesto Irrigation District, Local Agency Formation Commission, County Planning and Community Development, and the Environmental Resources Director, for a 45-day referral period in accordance with Government Code sections 65453 and 65352, and

WHEREAS, on December 20, 2021, at 6:00 p.m. the Planning Commission held a duly noticed public hearing in the Tenth Street Place Chambers located at 1010 Tenth Street, Modesto, California, at which hearing evidence both oral and documentary was received and considered concerning the proposed Fairview Village Specific Plan amendment, and

WHEREAS, after said public hearing, the Modesto City Planning Commission by Resolution Nos. 2021-22 recommended to the City Council approval of Amendment #4 to the Fairview Village Specific Plan to change the land use designation of approximately 23 acres located southeast of the intersection of Hatch Road and Carpenter Road from Commercial (C) to Village Residential (VR) and the Circulation plan to realign connector streets, ensure adequate area for the planned elementary school, neighborhood park, and central stormwater drainage basin, increase connectivity to the external roadway network, establish an agricultural preservation policy and other policies consistent with the General Plan and make other minor amendments, and

WHEREAS, said matter was set for a public hearing of the City Council to be held on February 8, 2022, in the Tenth Street Place Chambers located at 1010 Tenth Street, Modesto, California, at which date and time said duly noticed public hearing was held.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby finds and determines that the proposed Amendment #4 to the Fairview Village Specific Plan, property located northeast of the intersection of Carpenter Road and Whitmore Avenue is consistent with the Modesto Urban Area General Plan, which designates the site as Specific Plan (SP).

BE IT FURTHER RESOLVED by the Council of the City of Modesto that the Fairview Village Specific Plan is hereby amended to change the land use designation of approximately 23 acres located southeast of the intersection of Hatch Road and Carpenter Road from Commercial (C) to Village Residential (VR) and the Circulation plan to realign connector streets, ensure adequate area for the planned elementary school, neighborhood park, and central stormwater drainage basin, increase connectivity to the external roadway network, establish an agricultural preservation policy and other policies consistent with the General Plan and make other minor amendments, as shown on **Exhibit "A" attached** hereto and incorporated herein by reference.


BE IT FURTHER RESOLVED that 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.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 8th day of February, 2022, by Councilmember Kenoyer, who moved its adoption, which motion being duly seconded by Councilmember Escutia-Braaton, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Escutia-Braaton, Kenoyer, Madrigal, Ricci, Wright, Zoslocki, Mayor Zwahlen

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST:   
DANA SANCHEZ, Interim City Clerk

(SEAL)

APPROVED AS TO FORM:

BY:   
JOSE M. SANCHEZ, City Attorney

**Exhibit A**

**Fairview Village Specific Plan**

# City of Modesto

## Fairview Village Specific Plan

This document reflects all amendments to the Fairview Village Specific Plan, as of November 4, 1997



Amendments to the Fairview Village Specific Plan

This document contains information from the original Fairview Village Specific Plan adopted December 12, 1995, by City Council Resolution No. 95-584, as revised by the following Specific Plan Amendments:

SPA #1      **Incorporate Changes in Financing Installation and Ongoing Maintenance of Infrastructure within the Specific Plan Area from Various Assessment Districts to a Single, City Mello-Roos Community Facilities District**

Recommended by Planning Commission Resolution No 97-12

Adopted by City Council Resolution No. 97-135

SPA#2      **Delete the Requirement for a Housing Trust Fund Equity Sharing Program and Collection of an Affordable Housing Fee**

Recommended by Planning Commission Resolution No. 97-15

Adopted by City Council Resolution No. 97-138

SPA#3      **Add Language to Allow Changes in Service Providers**

Recommended by Planning Commission Resolution No. 97-71

Adopted by City Council Resolution No. 97-622

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- 2.2 Land Use
- 2.3 Infrastructure
- 2.4 Agricultural Preservation Policy

## **Chapter 3: Implementation**

- 3.1 Basic concepts
- 3.2 Submission and Approval of subsequent Projects
- 3.3 Financing Measures

## Chapter 1: Introduction

### 1.1 Forward

Fairview Village is a proposed planned community for approximately 5000 people. It is to be developed on a 364-acre site, held in three contiguous ownership, at the southwest edge of the City of Modesto. Bounded by the expanded Hatch and Carpenter Roads and by Whitmore Avenue, the Village is designed around a large central neighborhood park and elementary school. At completion, Fairview Village will include two elementary schools, the central neighborhood park and a commercial center with shops, offices and apartments.

### 1.2 Purpose and Nature of the Specific Plan

The purpose of the Fairview Village Specific Plan is to implement the goals, objectives and policies of the City of Modesto General Plan, as authorized by Section 65450 *et. seq.* of the State Government Code. Section 65451 specifies that a Specific Plan shall include text and a diagram or diagrams to describe in detail:

1. The distribution location, and extent of the uses of land, including open space, within the area covered by the plan.
2. The proposed distribution, location and extent and intensity of major components of public and private transportation, sewage, water, drainage, solid waste disposal, energy and other essential facilities proposed to be located within the area covered by the plan and needed to support the land uses described in the 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 carry out paragraphs (1), (2) and (3).

Specific plan legislation was adopted by the California legislature as an optional planning tool, available to local governments, to facilitate implantation of their General Plan. The primary function of the Specific Plan is to require that an area, or subarea of the General Plan be developed as a unit with regard to land use, public facilities and infrastructure. By grouping properties together for planning purposes, regardless of size, ownership or existing land uses, it was felt that community facilities and public improvement projects could be planned more effectively and could be financed and developed in conjunction with orderly private development. The Specific Plan is intended to prevent the piecemeal, random development of an area by requiring a rational sharing of resources.

The Specific Plan is not a rigid book of rules nor does it attempt to control every design detail of future development project. By focusing on land use, infrastructure, design standards for public improvement and implementation, it seeks to avoid the mistakes of static, end-state plans which leave little if any room for future flexibility or design creativity. The Specific Plan anticipates changing market conditions and acknowledges that developer will play an active role in determining the final design of individual projects that are consistent with Plan policies and requirements, including necessary mitigation measures for identified environmental impacts.

Prior to the Specific Plan process, property owners were able to petition successfully under the General Plan for annexation and development approvals regardless of the planning condition of nearby properties. The problem of piecemeal development was compounded in the late 1980s by a generalized real estate

boom in the State combined with reduced public funding for public improvement. Planners found it difficult to project growth impacts and to provide adequate public facilities and services. The Specific Plan was covered as a valuable subset to the General Plan. It was designed to provide a bridge that did not previously exist between public interest and resources, including requirements infrastructure and services on the one hand a private, one party land interests on the other.

In 1989, the City of Modesto adopted the Urban Growth Management Strategy, which requires that any future development within what is called the Urban Reserve be planned and annexed as villages under the auspices of Specific Plan. This action was seen as a necessary response to preventing new development new development in undeveloped areas prior to there being adequate consideration for public service facilities such as roadways, parks, schools and utility improvements.

The Fairview Village Plan provides a comprehensive, orderly approach to growth within the Sphere of Influence of the City of Modesto. It adheres to the fundamental purposes of the Specific Plan process to prevent urban sprawl by providing coordinated development of public resources and facilities concurrent with private development. As an implementation-oriented plan, it avoids the micro-management of such details as lot design and the use of architectural design standard and guidelines that have proved cumbersome, if not effective in other plans. It does not intend to limit private initiative, creativity or market flexibility during any or all phases. It strives to conform to the critical concepts of comprehensive planning while recognizing that, as a market driven plan, the very essence of successful implementation is to allow adequate flexibility for future, unknown market conditions.

In summary, The Fairview Village Specific Plan is a blueprint for the construction of a new City of Modesto community of approximately 2250 homes, a village commercial center and a new elementary school and central neighborhood park.

### 1.3 Fairview Village Setting

#### 1.3.1 Location

The Fairview Village Plan Area is located just outside the southwestern boundary of Modesto, in Stanislaus County. It is contiguous to the Bret Harte neighborhood on the east and is bounded by three existing major streets on the other sides, Whitmore Avenue on the south Carpenter Road on the west and Hatch Road on the North. The Tuolumne River is nearby, just north of Hatch Road. The Area is within easy access of both of both Highway 99 and State Route 132.

The City's Growth Management Planning policy identifies Fairview Village as a logical location for new development and the County designates it an Urban Transition area.

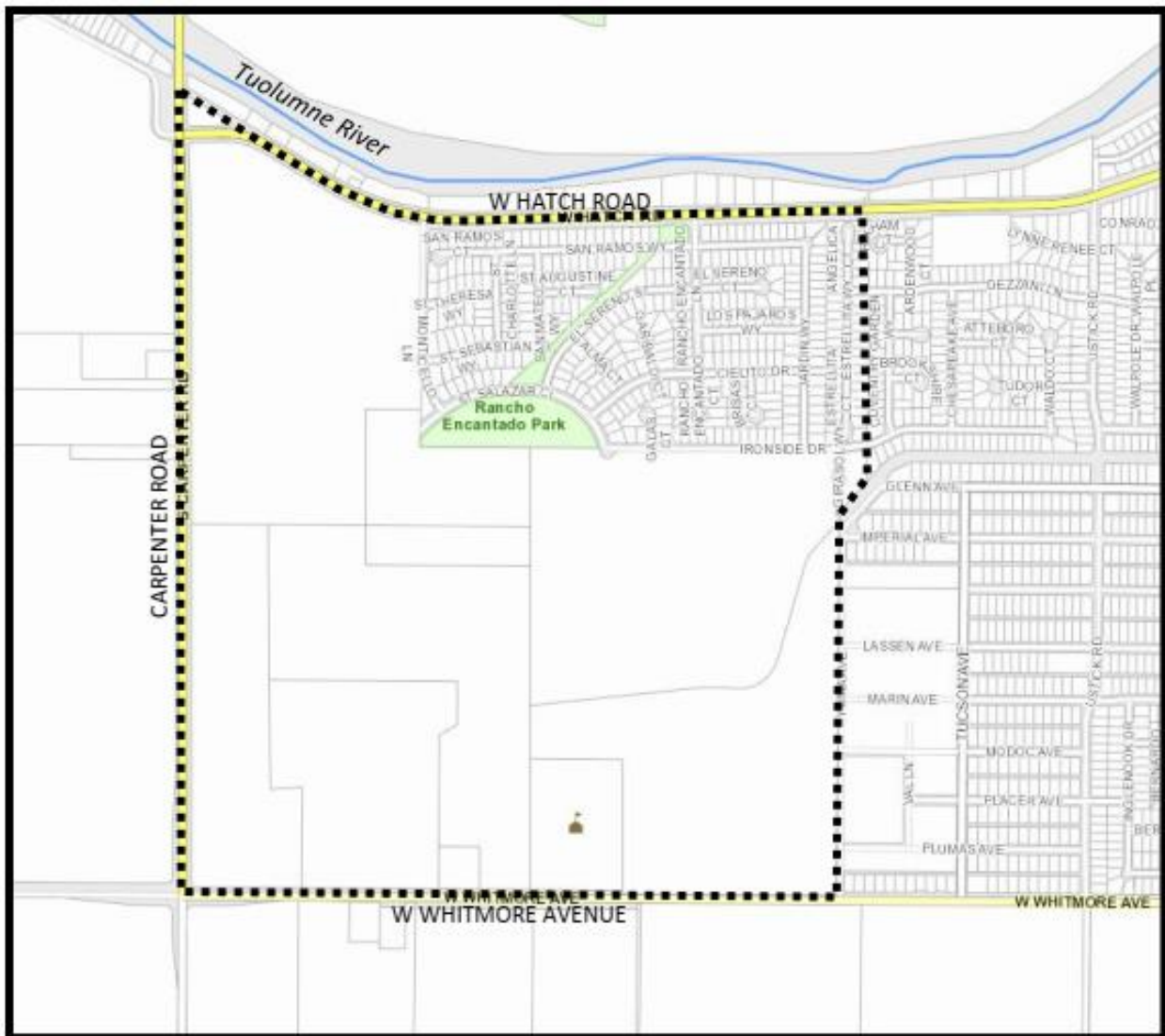


Figure 1: Location and Boundaries of Fairview Village Specific Plan

### *1.3.2 Boundaries and Area*

The Fairview Village Plan is essentially square with wash edge being approximately  $\frac{3}{4}$  mile. Two utility easements are located diagonally across the Plan Area. One is 50 feet wide and contains the Turlock Irrigation (TID) Lateral No. 1. The second is 40 feet wide and contains a City of Modesto, 60-inch force main outfall sewer line that extends to Whitmore Avenue, beyond which it becomes a gravity sewer line. Fairview Elementary School is publicly owned. The reference “property owners” in subsequent sections of the Plan is to be understood as meaning one or more of these ownerships.

### *1.3.3 Summary of the Environmental Setting*

The overall site, have been graded for irrigated agricultural use, is relatively flat, with a gradual downslope from south to north. Soils are generally alluvial deposits of sandy loam with some hardpan, designated as Prime Farmland by the California Department of Conservation. The area North of the TID lateral is designated as being within a 500-year flood plan, although some portion of the specific plan are with in the 200-year flood plain as defined by the Regional Water Quality Control Board (RWQCB). No further mitigation, beyond that identified in the Master EIR for the City General Plan Revision, is required for the Fairview Village Plan Area for loss of sensitive wildlife and Plant habitat or disturbance of archaeological or historical sites.

## **1.4 Planning Process**

This Specific Plan is part of a comprehensive planning process which serves to implement the City of Modesto General Plan goals and objectives according to Specific Plan identified principles policies and key projects. The detailed nature of the Specific Plan is intended to simplify the subsequent planning process and schedule and to clear the way for more efficient and timely approvals of projects in the Plan Area that are consistent with Plan policies, land use designations and infrastructure improvements. The process for developing in the Fairview Village Specific Plan includes:

- Annexation
- Tentative Subdivision Map Application
- Development Plan Review for Commercial and Multi-Family Development

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 3)

### *1.4.1 Relationship of the Fairview Village Specific Plan to the City of Modesto General Plan*

The City of Modesto adopted a major revision to the General Plan and certified the Master EIR in August 1995. The Fairview Village Specific Plan Area is identified in the revised General Plan as one of twenty-six Comprehensive Planning Districts (CPDs) which are designated areas for managed urban growth.

The Planned Urbanizing Area is predominantly flat, vacant and/or developed with agricultural uses and minimally if at all serve with urban services and infrastructure, including roads. Because it is an area where substantial development is expected, the General Plan Growth Strategy Diagram established that all new development in the CPDs will be planned comprehensively and implemented according to Comprehensive Plan, which are defined as policy documents meant to “create a bridge between general plan policies and individual development proposals.” The General Plan recognizes Specific Plan (by section 65450 of the State Government Code) as a form of Comprehensive Plan that may be used by the City to implement CPDs. In the Fairview CPD, the General plan proposes the preparation of a Specific Plan to guide of the identified Village Residential land uses. The Fairview Specific Plan for the Fairview

CPD has been developed according to the policies outlined in the revised General Plan for land use housing and public facilities and services.

*1.4.2 Severability*

In the event that any regulations, condition, program or portion of this Specific Plan is held invalid or unconstitutional by a California or Federal Court of competent jurisdiction, such portions shall be deemed separate, distinct and independent provisions. The invalidity of such provisions shall not affect the validity of the remaining provisions of the Specific Plan thereof.

## Chapter 2: Fairview Village

This section describes the physical characteristics of Fairview Village and is organized to address the following elements, as required by Specific Plan legislation and, the considerations of the Plan Area:

- Guiding Principles
- Land Use
- Infrastructure

### 2.1 Guiding Principles

The Fairview Village Specific Plan based upon a set of guiding principles that are intended to balance requirements for automobile access with those for pedestrian and other modes of access from all points to major community facilities such as schools, parks and neighbor shopping. These principles are:

- The Specific Plan focuses upon a central neighborhood park and elementary school, easily accessible to each residential area
- The open space, including parks, retention basins, school yards and street landscaping, is purposely designed in conjunction with the circulation network to make public green space a significant experience
- Residential densities are kept as high as feasible within the limits of a changing market

The principles guiding the Fairview Village Specific Plan are consistent with City of Modesto General Plan policies for new neighborhoods:

1. Communities or neighborhoods should be designed so that housing, jobs, daily needs and other activities are within easy walking distance of each other;
2. As many activities as possible should be located within easy walking distance of transit stops;
3. Communities or neighborhoods should contain a diversity of housing types to enable citizens from a wide range of economic levels and age groups to live within its boundaries;
4. Business within a community or neighborhood should provide a range of job types for the communities or neighborhood residents;
5. The location and character of the community or neighborhood should be consistent with a larger transit network;
6. Each community or neighborhood should have a center focus that combines commercial, civic, cultural and recreational uses;
7. Each community or neighborhood should contain an ample supply of specialized open space in the form of squares, greens and parks whose frequent use is encouraged through placement and design; and
8. Streets, pedestrian paths and bike paths should contribute to a system of fully connected and interesting routes to all destinations; their design should encourage pedestrian and bicycle use by being small and spatially defined by buildings, trees and lighting by the discouraging high speed traffic; wherever possible, natural terrain, drainage and vegetation should be preserved with superior examples contained within parks or greenbelts.

## 2.2 Land Use

This section of the Specific Plan established the general distribution and extent of land uses, including open space, within the Plan Area. It contains the Land Use Diagram and Land Use Designations and confirms to Section 65451 (a)(1) of the California Government Code.

### 2.2.1 *The Village Concept*

The ¾ mile square Plan Area allows residential development to be located within an approximately ¼ mile walking distance from a central school and neighborhood park site. A neighborhood serving commercial center, which may include residential development, is located in one of the neighborhoods where it will have visibility from the higher volume roads along the edge of the planning area and also be internally accessible to each of the neighborhoods and to the central park and school.

### 2.2.2 *Residential Neighborhoods*

The residential areas surrounding the central neighborhood school and park site are visually identifiable as separate, distinctive neighborhoods. The physical identity of neighborhoods as being places where there is opportunity for shared space and social interaction usually is the result of certain predominant characteristics that include topography, street layout and landscaping, lot size and geometry, the depth and landscape character of front yard setbacks, and often to a much lesser extent, architecture.

Approximately 1075 to 2150 single family units and 220 to 440 multi-family units are proposed for Fairview Village neighborhoods, for a total of between 1097 and 2590 residential units. A variety of housing types, design styles and lot sizes for single family units is anticipated as the result of zoning standards that allow higher densities and smaller lot sizes in appropriate locations as well as from phasing that accommodates many different builders over many years. Multi-family housing is to be located in and near the village commercial center.

The Fairview Village Specific Plan does not attempt to establish any design guidelines for residential or commercial development beyond that described by zoning and by the standard described in the Land Use Element. Design standards for Fairview Village are concerned primarily with neighborhood form as determined by public infrastructure, including streets and street landscape and by land use and development intensity. Development increments of 70 to 200 lots are anticipated. Project design will determine neighborhood character along the local residential streets.

The overall goal of the Fairview Village Specific Plan, with respect to affordable housing, is to provide housing opportunities within the Village for people with diverse income levels, as is compatible with the range of market rate housing that is planned.

### 2.2.3 *Commercial Center*

Neighborhood serving commercial development is located in the northwest quadrant of the Plan Area where it has high visibility from both Carpenter and Hatch Roads, each of which are Minor Arterials. The Fairview Village Commercial center is conceived as a pedestrian-friendly neighborhood district.

Community facilities such as churches, child care centers and health clubs also are encouraged in the Village commercial center. More intensive forms of residential development are located adjacent to and, where possible, are integrated into the commercial center. The maximum development program for the commercial center is identified as being 122,000 gross square feet of retail space.

#### 2.2.4 Schools

A new elementary school is located at the center of the Fairview Village Plan Area, which allows it to be equally accessible to each of the residential neighborhoods. The school has a civic function in the community, in addition to its role as a place of education, because it will be used occasionally for public meeting and because many of the parents of the community will be involved in school activities with their children. The new school site also is adjacent to the neighborhood park to increase the sense of open space for both school and park uses. The new elementary school will be a full-serviced facility, to be constructed, as required, to serve an identified level of new residential development in the Pan Area and in conformance with the criteria and standards for the Modesto city School District.

The existing Fairview Elementary School will serve Fairview Village residents in the early phases of development. It will also continue to be an important part of the community dynamic after construction of the new, more centrally located elementary school.

#### 2.2.5 Open Space

##### 1. Neighborhood Parks

A minimum of 7 acres of parkland is required in Fairview Village. There are a number of ways to achieve this requirement.

The Fairview neighborhood park shall be adjacent to the new centrally located elementary school. Park improvements may include both active use playfields and passive recreational use areas such as open expanses of lawn. The final design of the central neighborhood park will be developed as determined by the City's Parks, Recreation and Neighborhoods Department.

##### 2. Street and Drainage Basin Landscape

The connector streets are another important part of the Plan Area landscaping. As stated above, the overall visual character of the Fairview Village neighborhood is defined largely by the alignment and landscape character of the entry street and street adjacent landscape areas.

The landscaping along the connector streets will be a major aesthetic feature of Fairview Village and will be primary concern during the final planning and design of each increment of build out. The street landscape becomes a network of green space that provides a high-quality environment for pedestrians, bicyclist and all others who move about through the Village, including motorists. Landscaping, including planting, will be allowed in the drainage basin only if appropriate to the technical operating characteristics of the drainage basins. Landscape improvement and maintenance costs will be funded through a Mello-Roos Community Facilities District.

The Fairview Village property frontage along Hatch and Carpenter Road and along Whitmore Avenue will be improved, as development occurs, to include a landscaped setback. Along Hatch and Carpenter Roads, well designed sound walls will be provided to mitigate noise levels, as identified in the General Plan. Landscaping shall be designed for the setback area to create a unified edge along these roadways and to complement and break down the scale of what otherwise could be the dominant linear character of the sound walls.

Along Whitmore Avenue, which is a Minor arterial, the landscape setback also shall be designed to accommodate the 40-foot sewer easement that is described in detail in the infrastructure section of the Plan Area. A consistently designed masonry wall will be used to prevent unwanted access into development parcels along Whitmore Avenue. Maintenance of all the landscape setback areas along the

Fairview Village side of the three edge roadways will be maintained through a Mello-Roos Community Facilities District.

### 3. Utility Easement

Complementary to the landscaped circulation and landscaped drainage basins network is a diagonal, 40-foot sewer easement that is described in detail in the infrastructure section of the Plan. This easement crosses several of the connectors and is an opportunity for an off-street linear trail and bicycle route. A basis level of landscape improvements will be provided for the sewer easement that makes it an amenity. Subject to tentative map design, all landscape improvement for secondary, recreational uses shall be compatible with the primary function of the easement as the location for the underground sewer line. Basic maintenance would be provided by a Mello-Roos community Facilities District.

#### *2.2.6 Land Use Map, Zoning Designations and Area Summary Table*

This section of the Specific Plan provides a policy to protect nearby City infrastructure from a potential land use conflict, and the standards and criteria by which development will proceed in compliance with Section 65451 (a) (3) of the Government Code. The word diagram is distinguished from a map in the context of a California Attorney General Opinion (67OPS.CAL.ATTY.GEN.75(3/7/84), To provide a certain limited degree of flexibility in applying the land use designations to specific parcels.

##### 1. Policy: Residential Land Uses Near the City Wastewater Treatment Plant

The Land Use Plan shall ensure that new residential development in areas that may be subject to potential odors from the nearby City Wastewater Treatment Plant, located northeast of the Plan Area, does not adversely restrict future operations and the continuance of present operations at this critical treatment facility. (See Implementation Element 3.2.4)

##### 2. Land Use Plan Diagram

The following diagram is a graphic illustration of the designated land uses for the Fairview Village Specific Plan Area:

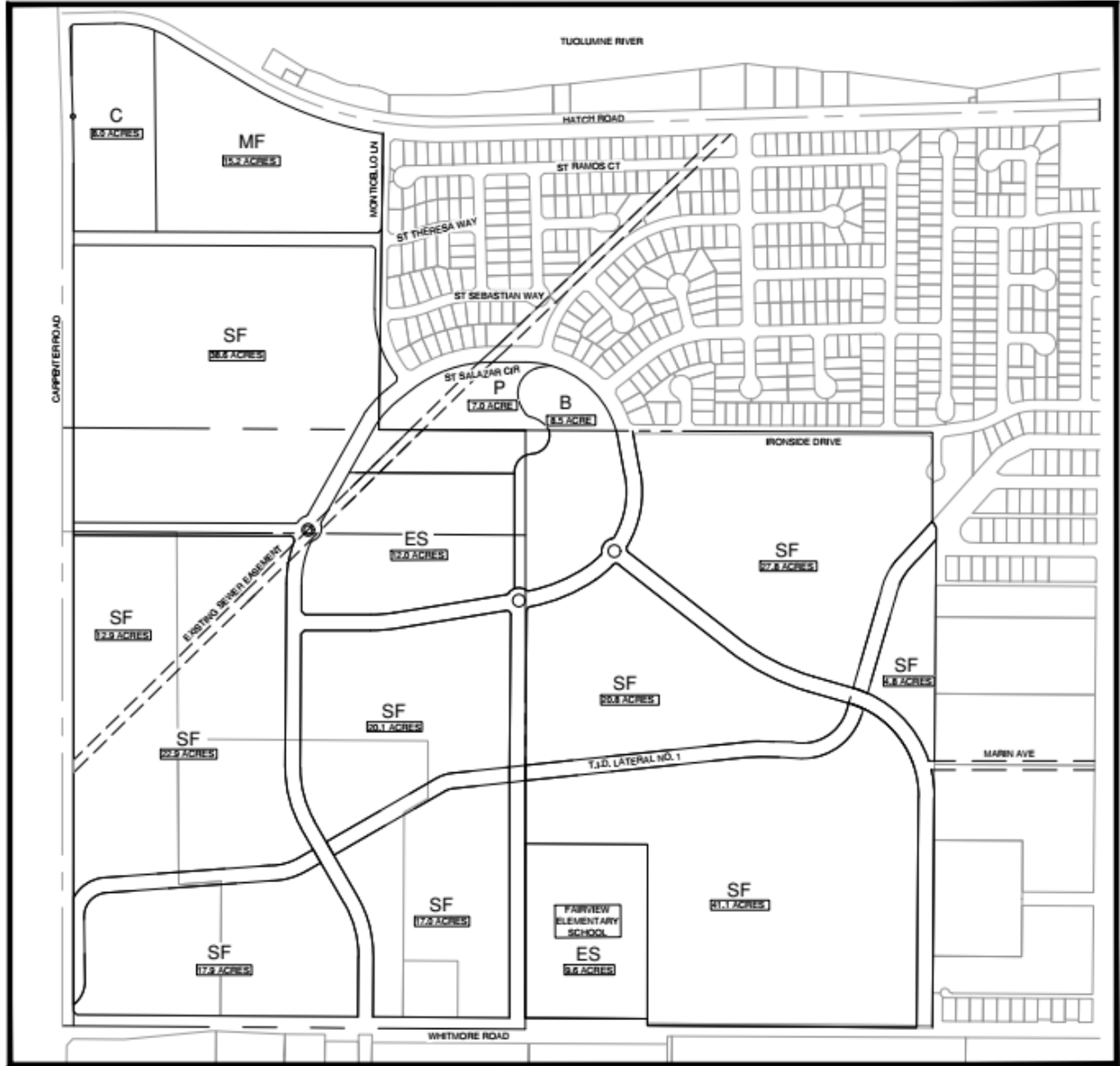


Figure 2: Land Use Diagram

3. Description of Fairview Village Land Use Designations

**Single-family homes (SF)**

The majority of the homes in Fairview Village will be single-family, generally conforming to the standards set forth in the Modesto Zoning Code under the R-1 designation, with the following exceptions:

For lots that meet or exceed the minimum lot size in the R-1 zone:

Front setback: 12 feet to the house or front porch and side entry garage

For lots that are smaller than the minimum lot size in the R-1 zone, the following setbacks from property lines will apply:

Front setback: 10 feet to the house or front porch

Interior side setback: 4 feet

Garage face setback: 18 feet

### ***Multi-Family Homes (MF)***

Areas for multi-family homes, including townhouses and apartment units, are designated where there is convenient access to major bus routes and expressways and near the Commercial Center to promote more diverse types of commercial activity over a longer portion of the day. These areas are identified on the Land Use Diagram by the letters “MF.” Development in the multi-family area shall conform to the uses and standards of the City’s R-3 zone.

- Development Plan Review by staff shall be required prior to approval of any multi-family development to ensure compliance with City standards prior to building permit submittal.

### ***Commercial (C)***

In general, the Commercial Center shall conform to the uses and standards allowed for C-1, Neighborhood Commercial Zone, with the following modifications:

- Additional permitted uses in the Commercial Area include R-3 residential apartments as a secondary, mixed use;
- Storefronts should have clear glass display windows;
- Larger surface parking areas are to have convenient, evenly spaced pedestrian walkways that provide access to the main shopping street and public square; Surface parking areas are to be well lit;
- Provisions should be made in the commercial center for places where people can sit outdoors; and
- Development Plan Review (of the Zoning Code) by staff shall be required prior to any development in the Commercial Area to ensure compliance with City Standards prior to building permit submittal

### ***Parks and Storm Drainage***

All new parkland shall be designed to City standards.

#### ***Storm Drainage***

The drainage basins and the 40-foot underground sewer easement also discussed in both the Open Space section above and the Infrastructure section below, may be accessible for public use subject to approval by the City.

**Elementary Schools**

Two areas are designed as school sites and are identified on the Land Use Diagram by the Letters, “ES”. Both are for elementary schools, as discussed previously in the section on Schools.

- The Fairview Elementary School site is 9.63 net acres and, as an existing facility, is considered to meet current standards for site area;
- The new Fairview Village elementary school site is 12 acres and is a community facility located adjacent to the central neighborhood park.

Use	Gross Acreage	Net Acreage	Yield
Stormwater Basin	8.5	8.5	n/a
Elementary School	12	11.7	n/a
Park	7.0	6.4	n/a
Commercial	8.0	8.0	122,000
Multi-Family	15.2	15.2	220 – 440
Single Family	223.8	215.3	1,075 – 2,150
<b>TOTAL</b>	<b>284.1</b>	<b>265.1</b>	---

**2.3 Infrastructure**

This section of the Specific Plan describes public facilities, including community services and infrastructure, needed to support the physical development described in the Land Use Section. Descriptions and proposed improvements conform to the requirements of Section 65451(a) (2) of the Government Code for transportation, circulation and access, sewage, water, drainage, solid waste disposal, and energy.

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.

*2.3.1 Circulation and Access*

The street layout for Fairview Village is a modified north-south/east-west grid, that connects with a circular, central connector roadway defining a large site for the Village elementary school and neighborhood park. (Six connector streets, which in turn are served by local streets, provide access to the edge arterials for the neighborhoods and commercial center). The residential street alignments are identified in the Specific Plan at a conceptual level actual alignment will be determined at the subdivision level.

The connector intersection with Hatch and Carpenter Roads and Whitmore Avenue, at a distance of ¼ mile or greater in accordance with City Standards. Hatch and Carpenter Roads and Whitmore Avenue will be widened to meet planned future width lines in conjunction with tentative subdivision map approvals as required by the City.

Connector street intersection with the circular, central connector around the neighborhood and park site are to be located at reasonable intervals that equally distribute access to the community facilities and at

points on the curve that do not result in unacceptable intersection geometry. Local residential street intersections with collectors are to be sufficiently well located to allow relatively direct pedestrian routes between neighborhood and community facilities including Fairview central neighborhood park and school and the commercial center.

In concept, street widths and alignment for neighborhood tentative maps, as well as for connector streets, are designed to encourage low speed traffic and to be friendly places for people as well as for cars. All streets in Fairview Village are amenable for multiple uses, including pedestrian bicycle and automobile traffic with the result that they become shared public space connecting individual residences and neighborhoods with the schools, shopping and parks within the overall area of Fairview Village.

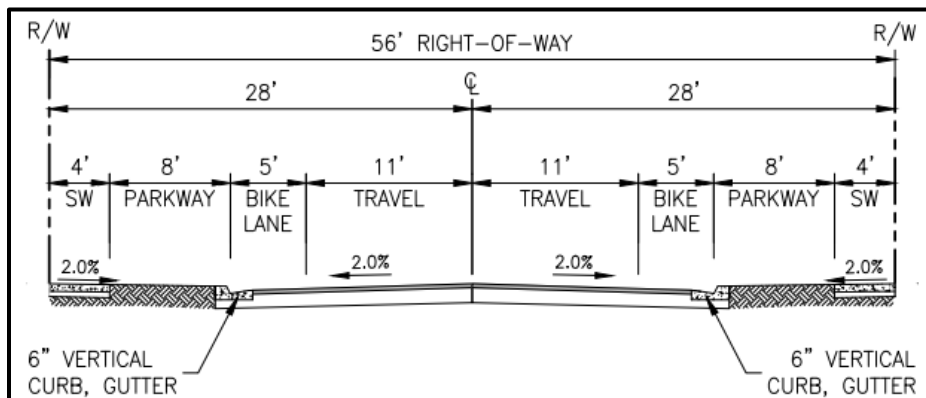
1. Right of Way and Design of Local Streets

Local streets shall be designed in accordance with Modesto’s Standard Specifications Manual.

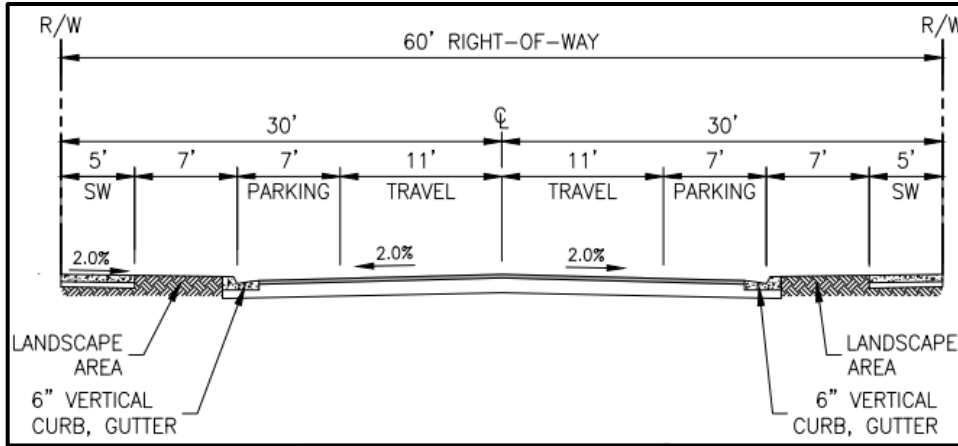
2. Right-of-Way for Connector Street

Connector streets should be designed using the following right of way standards:

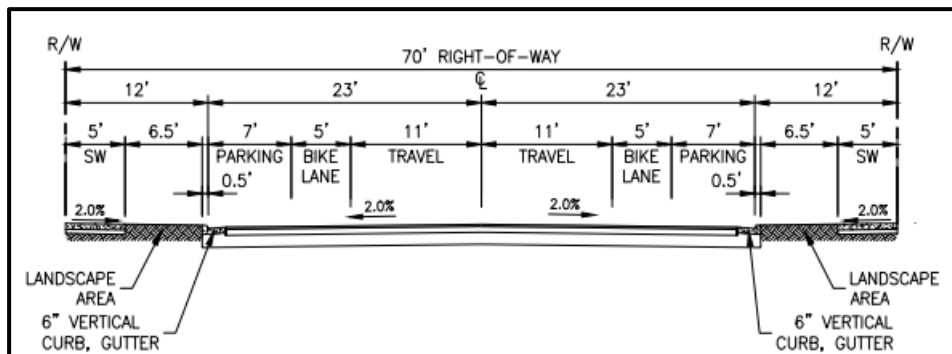
- a) For circular “loop” street around the central park/open space: 70’ROW (includes parking and bicycle lanes)
- b) For connector streets indicated on as requiring a bicycle lane, but not having parking: 56’ ROW (where residential access is restricted, parking would not be provided)
- c) All other connector street: 60’ ROW (where residential access is allowed, parking would be allowed and bike lanes would not be required)



Typical Section, 56-Foot Right of Way with Bike Lanes



Typical Section, 60 Foot ROW Secondary Connector



Typical Section, 70 Foot ROW Central Park, School Oval

Residential Access to Connector Streets

With regard to Residential Access to Connector Streets (i.e. driveway from single family houses taking direct access to Connectors), the following three policies have been adopted in the Specific Plan:

a) General Policy on Access to Connectors

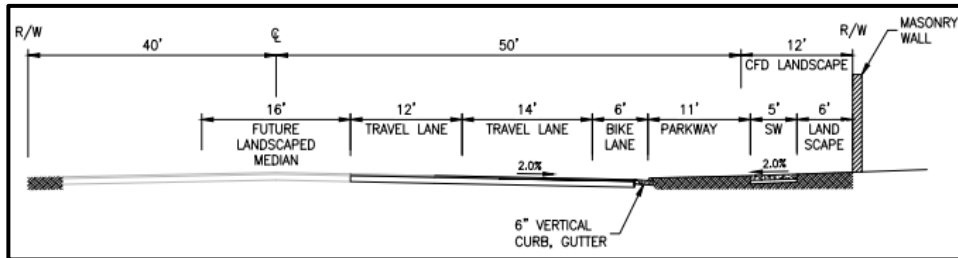
Connectors streets, which provide significant access from the interior of the project to the arterial street to the periphery of Fairview Village, should be designed such that vehicular access, at safe speeds, is not unduly impeded. In general, those most significant Connector Streets, as determined by the City, should be located and designed in such a way that residential lots direct driveway access onto those connectors is minimized.

b) Policy on Access to Connector Streets

Connector Streets may be allowed residential driveway access on a case by case basis. The City may allow residential driveway access to connectors unless said access presents unique safety or congestions problems.

3. Right of Way and Design of Minor Arterials

Three minor arterials border the Fairview Village Specific Plan: Hatch Road on the north, Carpenter Road on the west, and Whitmore Avenue on the south. The cross section of these facilities is shown below.



Typical Section, Minor Arterial

2.3.2 *Sanitary Sewer*

Sanitary sewer service to Fairview Village will be provided by the existing City of Modesto 33-inch diameter South Trunk, located in Ustick Avenue, which runs north under the Tuolumne River to the City of Modesto Waste Water Treatment Plant, located immediately northeast of the Plan Area. The City General Plan establishes goal to provide for future operations and the continuance of present operations of this facility and the Specific Plan for Fairview Village provides measures to insure implementation of these goals both in the Land Use and Implementation sections.

Three lines have been extended from the South Trunk line the easterly boundary of the Plan Area. These lines are described as: (1) a 15-inch diameter sub-trunk on Ironside Drive, at flowline elevation 74.45 feet, which will serve most of the Plan Area, (2) a 10-inch diameter sub-trunk on Hatch Road at flow line elevation 72.02 feet, which will serve as part of the Plan Area along the Hatch Road frontage, if needed, and (3) a 6-inch diameter lateral on Dezzani Lane elevation 77.74 feet. Finally, a City of Modesto 60-inch diameter sanitary sewer force main traverse the Plan Area over northwesterly corner from northeast to southeast. This force main runs from the Modesto Waste Water Treatment Plant to remote treatment ponds near the San Joaquin River. It should be noted that the City intends to install a second 60-inch diameter pressure pipeline east of the existing 60-inch diameter force main. The existing pipeline is not available to serve Fairview Village.

The 15-inch diameter sanitary sewer on Ironside Drive will be extended west to serve new development in Fairview Village. A sanitary sewer lift station will be required to discharge into the existing line. From the lift station, a 15-inch diameter line will be extended west to the street that fronts the proposed central park and elementary school. At this point, the line will split into two 10-inch diameter lines. The northerly 10-inch line will extend 1250 feet to serve the westerly portion of the Galas property and the northwest portion of the Bava property. From the 10-inch lines at the intersection of the north/south connector and the connector that fronts the park and school, 8-inch lines will be extended north and south. Six-inch laterals are permitted only in cul-de-sacs.

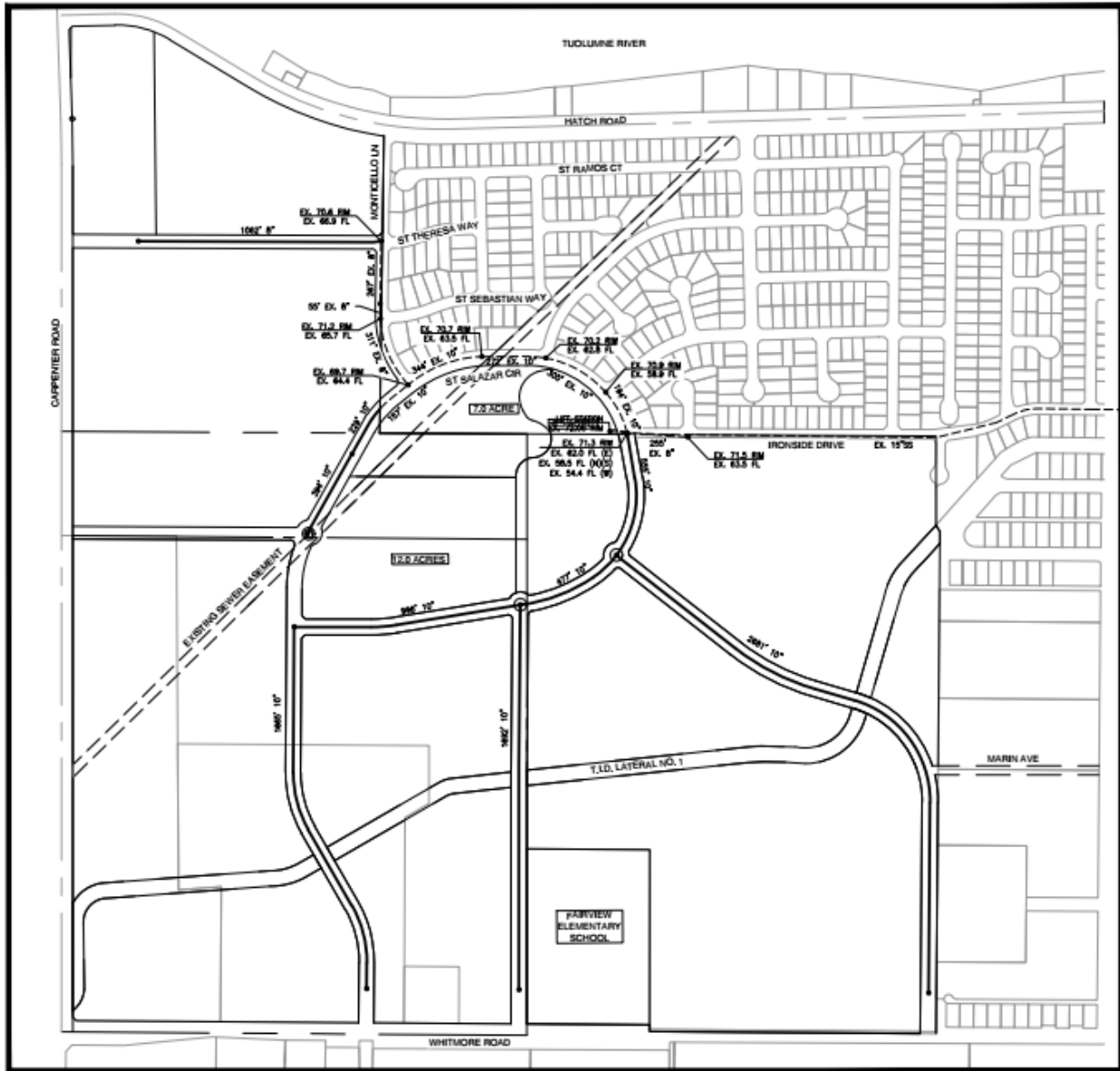


Figure 3: Backbone Sewer Service

### 2.3.3 Stormwater Drainage

Disposal of stormwater runoff will be via the 30-inch diameter Scenic Drive Storm Drain outfall line. This line runs from Ustick Road, east along Hatch Road, then north along Seine. It discharges into the Tuolumne River. An 18-inch diameter storm drain line has been extended from Ustick Road along Hatch Road to within 340 feet of the northeast corner of the Plan Area at a flow line elevation of 72.45 feet. This line does not have capacity for gravity flow, but can take a metered overflow from the planned drainage basins following a storm.

As previously discussed in the Open Space section above the landscaping for the drainage basin will be designed so that it does not interfere with technical operating requirements. The drainage basin will not be located over the sewer easement.

After 24 hours, storm water can be discharged from the drainage basins into the City of Modesto's existing 18-inch storm drain on Hatch Road via a lift station. Following a 10-year storm, the system is designed to empty all drainage basis within approximately three days.

The TID Lateral No. 1 traverses the Plan Area over the southerly one third portion from northeast to southeast and west. It is concrete lined canal carrying over 60 to 70 cubic feet per second (cfs) during the irrigation season, from March to October. The TID is generally at elevation 86.0 feet and must remain in use to serve agriculture used I the Plan Area prior to development and to serve other properties to the west of the Plan Area.

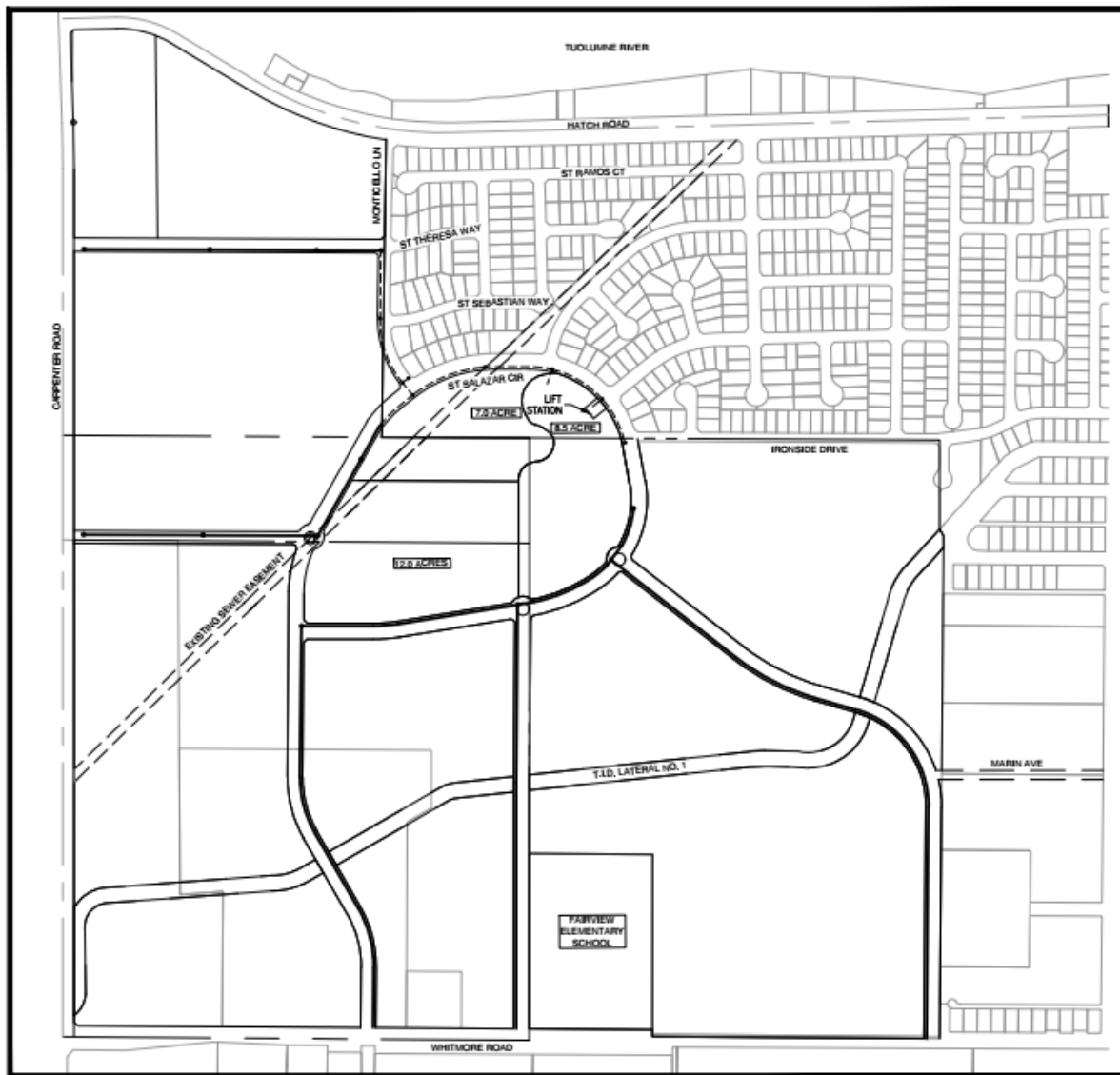


Figure 4: Stormwater Drainage System

#### 2.3.4 Water

The City of Modesto will serve Fairview Village with water following annexation to the City of Modesto. At present, there are 16-inch diameter water mains on Carpenter Road, Whitmore Avenue and Tucson Avenue. There is a 12-inch diameter water main on Hatch Road. In addition, there are 8-inch diameter water lines stubbed out to the edge of the Plan Area on Ironside Drive and Dezzani Lane from City's residential development to the east. The City anticipates the need to locate a well site near Whitmore Avenue and Carpenter Road.

Water lines to serve Fairview Village will be installed as development occurs. On the nominal half mile, 12-inch diameter lines will be installed north/south and east/west, beginning and terminating at the existing lines on the boundary streets. On the nominal quarter mile, 8-inch diameter lines will be installed, beginning and terminating at 12-inch and/or 16-inch diameter lines. Finally, 6-inch diameter lines will be installed on all other streets, beginning and terminating at the 8-inch diameter lines. As standard practice, "looping" of water lines shall be designed to avoid any "dead end" lines.

One offsite, 8-inch diameter line will be installed along the extension of Lassen Avenue from Tucson Avenue, to the east edge of the Plan Area. In accordance with City policy, all lines larger than 10 inches in diameter will be funded by the City. All lines smaller than 10 inches in diameter will be funded by the developer.

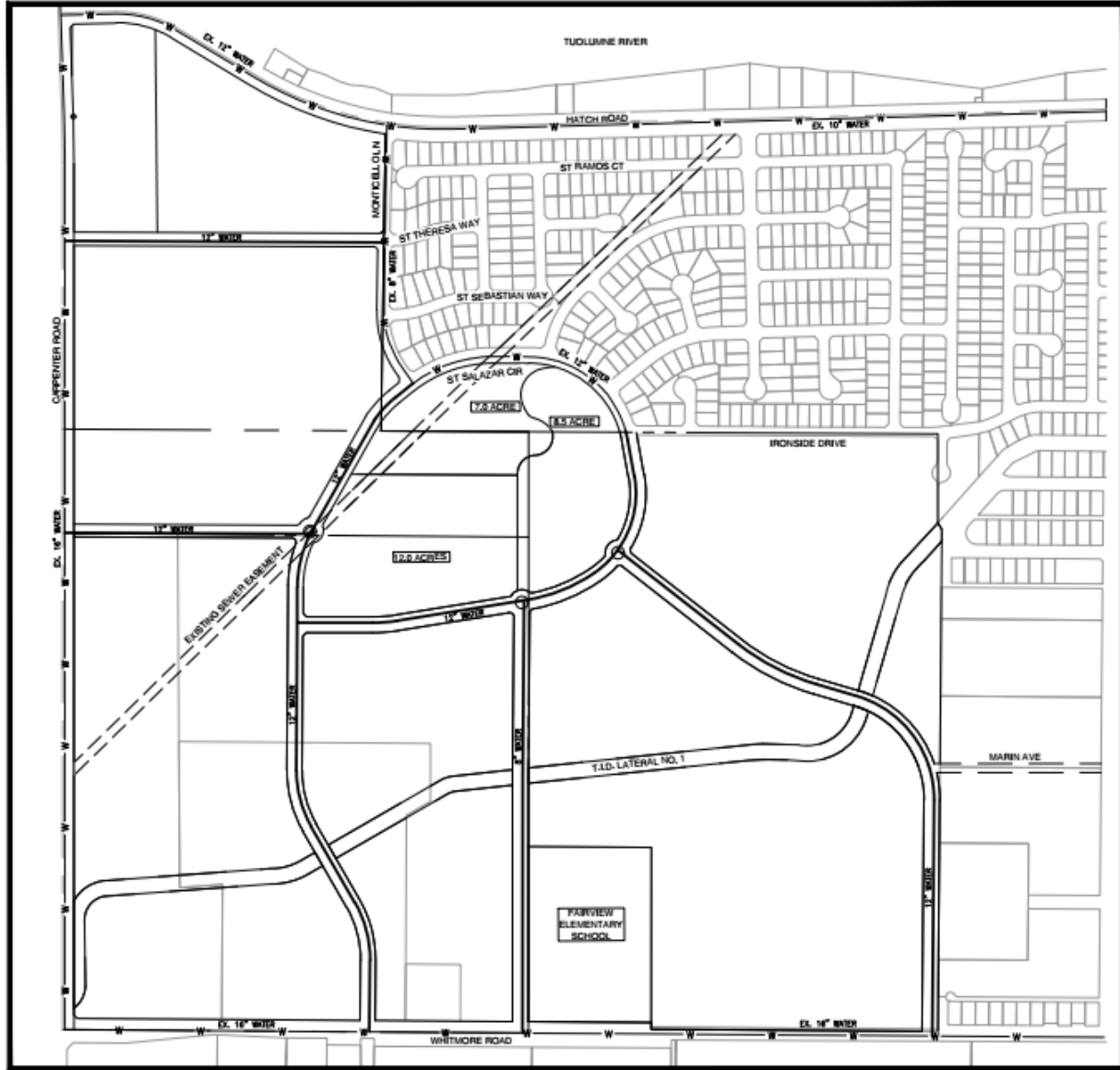


Figure 5: Backbone Water Service

### 2.3.5 Energy

The California Environmental Quality Act identifies energy conservation as a goal in community development. The City of Modesto General Plan establishes policies to mitigate the use of “fuel, water or energy in a wasteful manner.” The Specific Plan conforms to General Plan policies to mitigate adverse impacts to energy conservation by (a) requiring the use of large-scale shade trees where feasible and appropriate in landscape plans for all new development proposals, (b) encouraging Turlock Irrigation District to establish and promote a program to provide incentives for increasing the number of shade trees, and (c) coordinating with energy conservation plans provided by the Modesto and Turlock Irrigation Districts (for electricity) and by Pacific Gas & Electric (PG&E, for natural gas) on all new, large-scale development proposals in the Plan Area. Finally, the pedestrian oriented design character of

the Fairview Plan Area provides residents the energy conserving option of reduced automobile dependency.

#### *2.3.6 Other Utility Services*

The Turlock Irrigation District will provide electric services to the Plan Area. Natural gas is provided by PG&E.

#### *2.3.7 Schools*

The Plan Area is within the Modesto City School District. The middle school is Hanshaw, and the high school attendance area is Downey. There are two elementary schools with Fairview Village, the existing Fairview Elementary School and a proposed new elementary school located in the Fairview Central Park. The new elementary school will be a full-service facility to be constructed as required by new residential development in the Plan Area and in conformance to a separate agreement with the School District.

#### *2.3.8 Fire, Police and Other Services*

Fire and police services will be provided by the City of Modesto, as will service and maintenance for parks and water, sewer, streets, roads, street lighting, storm drainage, public area, landscaping and general city government services, except as otherwise noted in the Implementation Element of the Plan. Trash disposal is provided by the current franchise holder.

### **2.4 Agricultural Preservation Policy**

The Stanislaus Local Agency Formation Commission (LAFCO) has adopted a policy for the preservation of agricultural land. Every agency in Stanislaus County may choose to adopt its own agricultural preservation policy or to comply with LAFCO's adopted policy. The City of Modesto has chosen to use a portion of LAFCO's policy, as amended, which is summarized below in its current form.

In essence, LAFCO's policy requires the preservation of farmland, either indirectly or directly. The City of Modesto will require the payment of in-lieu fees at a 1:1 ratio of land proposed for annexation and development to land preserved for agriculture through conservation easements or other similar restrictions. Agricultural land preserved must be of an equivalent type to the land proposed for annexation and development, so for example, prime farmland to be developed will result in the preservation of prime farmland.

## **Chapter 3: Plan Implementation**

### *3.1 Basic Concepts*

The most important opportunity represented by the Fairview Village Plan Area is that it is held in a small number of property ownerships. A complex implementation program is not required. The Specific Plan is designed so that each owner is made responsible for all of the improvements that are necessary for development of his or her property. In essence, it is a feasible, market driven, pay-as-you-go-plan.

Adoption of the Specific Plan establishes a comprehensive set of polices, land uses, infrastructure improvements and development standards for the Plan Area sufficient to guide the subsequent review process for project applications, which is discussed as one part of the implementation program. This procedural aspect of the implementation program may include the following components:

- Annexation
- Tentative Subdivision Maps
- Staff Level Development Plan Review for Multi Family and Commercial Development

The second part of the implementation program identifies the responsibilities of the property owner to fund and build the community facilities necessary to allow development of the Plan Area. In summary, each property owner, upon adoption of the Specific Plan, will be bound when seeking development approvals to the following set of agreements:

- Infrastructure improvements shall be built according to the location, size capacity and design described in the Specific Plan; and
- Public improvements for individual developments within the Specific Plan will be determined by the City at the time of approval of the development.

The Fairview Specific Plan provides a sufficient level of direction for public improvement and community facility requirements to guide the sequent process necessary to review and approve developer application for tentative subdivision maps and development projects. The following sections discuss in more detail the major features of the Specific Plan implementation and conform to the requirements of Section 65451 (b) of the Government Code.

## **3.2 Submittal and Approval of Subsequent Projects**

### *3.2.1 Tentative Subdivision Map Applications*

The tentative subdivision map application process is governed by the City of Modesto's Subdivision Ordinance and the State Subdivision Map Act (Section 66410 et. seq). The tentative subdivision map application shall provide final design of connector and local roads.

To be approved, tentative subdivision map applications must conform to the requirements of the Specific Plan. Following tentative subdivision map approval, development projects may be submitted for development plan review.

### *3.2.3 Land Use Development Standards*

Development standards shall be in accordance with the Municipal Code unless specified other is in the Specific Plan.

As noted in the Land Use section of the Plan, certain residential properties may be determined to lie within a zone of potential odor impacts from the nearby City of Modesto Wastewater Treatment Plant, which is located to the northeast of the Plan Area. In such cases, a disclosure, or other mechanisms satisfactory to the City Attorney, as determined at the time of subdivision application, may be used to achieve the goal of providing for the present and future operations of the treatment facility. Adjacent and nearby agricultural activity and future home buyers and prospective residents of Fairview Village shall be provided disclosure that they are subject to noise, dust, odor and other impacts from adjacent agricultural uses.

### *3.2.4 Amendments to the Specific Plan*

Because of its programmatic nature and as economic conditions dictate, the Specific Plan may require more amendments than other types of plans. Amendments to the Specific Plan will be classified as either minor or major (substantial in significance)

- **Minor Amendments**

Minor amendments include simple modifications to text or graphics that do not substantially change the meaning, intent or are contrary to any provision of the Specific Plan. For example, a minor amendment could be a minor acreage adjustment between adjacent land use designations that does not increase the maximum number of units. Another example could be a minor alignment adjustment with a Collector street that does not affect the general circulation and land use plan. Minor modifications may be accomplished administratively by the Director or designee or the Director may refer the proposed modification to the Planning Commission for decision without public hearing. Any decision by the Director or designee is appealable to the Planning Commission

- **Major Amendments**

Major (substantial) modifications are amendments to exhibits or text that result in significant change to the intent of the Specific Plan. Examples of major amendments would be a significant increase in the maximum number of residential units or commercial area, a substantial modification in the amount of park/basin and school site or the general circulation system layout, or a modification which may cause significant environmental impact, or other issues to be determined by the Director or designee. Major modifications require a Specific Plan Amendment and shall be approved by the Planning Commission and City Council. Major amendments shall adhere to the following format:

- All amendments to the plan will include textual, graphic or other materials suitable to replace or augment the sections being modified in the amendment. The applicant must provide amendments to the text using a strike out and underline format and amendments to graphics using clouds and delta format. The graphic format and style of the original specific plan will be followed for ease of incorporation and consistency
- Amendments to the Specific Plan may be subject to environmental analysis
- Consistent with the provision of Government Code Section 65453, both the City Council and the Planning Commission will hold public hearings on any proposed amendment to the Specific Plan.

### 3.3 Financing Strategy

#### 3.3.1 Purpose

Financing for Fairview Village is provided as part of the Specific Plan, both in accordance with specific plan State Government Code requirements (Section 65451, item 4) and with City of Modesto Urban Area General Plan policy, which states that, “Each Comprehensive Plan should include a long-range financing strategy which provides reasonable estimate of the costs of on and off-site infrastructure to support the proposed development pattern. The strategy should generally address public facility funding, including schools for any development which serves to implement the subject Comprehensive Plan. If new public facilities are required which will also serve the broader community, the Comprehensive Plan should include options for broad-based funding mechanisms.”

On-site facilities are defined as being located within the property boundaries that define the Plan Area. Off-site facilities are defined as being located outside the property lines that define the overall Plan Area. These boundaries are described in the introductory section of the Plan.

A basic concept of the Specific Plan Financing Strategy is that infrastructure improvements are to be constructed in conjunction with new development. These infrastructures shall be sized according to identified future needs with compensation from property owners who will receive future benefit.

Infrastructure improvements necessary to support proposed new development are the responsibility of individual property owners and financing may include City and or County fees. In general, fees are understood to be both the City and County’s Facilities Fees (CFFs), Community Facilities District (CFDs), the County’s Public Facility Fees (PFF), as well as an allocated portion of School and building permit fees.

#### 3.3.2. Community Facilities Districts

The City intends to create Community Facilities Districts (“CFDs”) or similar funding mechanism to fund construction and maintenance of backbone infrastructure, community facilities and possibly community services necessary to serve the Fairview Specific Plan Area. The purpose of this funding mechanism will be to ensure the City is collecting all funds necessary to construct and maintain the regional, backbone infrastructure and community facilities necessary to serve the Specific Plan Area. This CFD may include police and fire services as well. Subsequent documents shall establish the cost allocation and tax or fee structure for all properties within the Specific Plan area. It is the policy of the City Council that no new development may occur without forming or annexing to the applicable CFD(s) or other capital and maintenance funding mechanisms adopted by the City at the applicable rate(s), and by paying all applicable fees and taxes.

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 secure and establish a City Mello-Roos CFD for the Fairview Specific Plan for capital improvements and ongoing maintenance or, if said CFD has been established for the Kiernan Business Park Specific Plan, the property owner and/or developer shall take all actions reasonably necessary to annex its property to said CFD, which shall actually result in annexation of its property to said CFD at the tax rate for the zone of said CFD to which the property is ultimately annexed; or, alternatively, in the event a CFD is not formed or complete annexation of the property does not occur for any reason, the property owner and/or developer may provide a funding mechanism for said capital improvements and ongoing maintenance (and possibly police and fire services) to the same general standard as other similar capital improvements, ongoing

maintenance and community services financed by said CFD, subject to approval of the funding mechanism by the City, which approval shall not be unreasonably withheld. Payment of the CFD tax(es) shall be required prior to issuance of a building permit. Each parcel shall also be required to pay all CFF, sewer and water capacity charges and other development fees applicable to the property in accordance with City ordinances, resolutions, regulations, policies and procedures. 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 in the CFD for the Specific Plan area may be considered for funding the construction of backbone infrastructure and community facilities necessary to serve the Specific Plan area. Developers of properties that proceed ahead of the infrastructure sequencing plan may be required to install and fund the costs of extending backbone infrastructure to their projects, subject to future reimbursement in accordance with the sequencing and prioritization contained in the CFD. Some developments may need to construct roads, sanitary sewer, water and storm drainage facilities through areas that remain undeveloped.

### *3.3.3 Capital Facilities Fees*

Capital Facilities Fees pay for citywide improvements for streets, transit, police and fire facilities, parks, air quality, general government, and administration.

### *3.3.4 Water Fees*

All development will be required to pay the City's adopted water connection fees, which pay for major water facilities needed for the project.

### *3.3.5 Sewer Fees*

There are several primary sewer fees that will apply to new development for the project's fair share of sewer service. The Sewer Capacity Charge pays for the Wastewater Treatment Plant and sewer trunk system throughout the City. The Subtrunk Charge pays for the construction and maintenance of subtrunk lines. The Lateral Charge pays for specific sewer laterals that extend from the street or alley to the specific property.

### *3.3.6 Developer Installation*

Developers are responsible to install the project infrastructure including street dedication and improvements within the Plan Area and those necessary off-site improvements. The size, location, and design of the project infrastructure will be determined at the time of Tentative Map, Final Development Plan and/or Administrative Final Development Plan approval.

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2022-102**

**RESOLUTION APPROVING THE FILING OF AN APPLICATION WITH THE STANISLAUS LOCAL AGENCY FORMATION COMMISSION FOR THE REORGANIZATION OF APPROXIMATELY 177.75 ACRES LOCATED EAST OF CARPENTER ROAD AND NORTH OF WHITMORE AVENUE FOR ANNEXATION TO THE CITY OF MODESTO AND MODESTO SEWER DISTRICT NO. 1 AND SIMULTANEOUS DETACHMENT FROM THE WESTPORT AND BURBANK-PARADISE FIRE PROTECTION DISTRICTS**

WHEREAS, Bava Family Farms is the owner of approximately 58.69 acres of real property, located east of Carpenter Road and north of Whitmore Avenue, about 88.98 acres is owned by other Bava-owned businesses, and the remaining approximately 30.08 acres of real property is owned by public agencies and individuals (“Property”), and

WHEREAS, STL Company LLC (“Applicant”) has approval from Bava Family Farms to apply for entitlements on its property, and

WHEREAS, the City has received a request from the Applicant to initiate reorganization of the Property, a total of approximately 177.75 acres, for annexation to the City of Modesto and simultaneous detachment from the Westport and Burbank-Paradise Fire Protection Districts 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 the Cortese-Knox-Hertzberg Local Reorganization Act of 2000, California Government Code Section 56000, et seq, and

WHEREAS, the Property to be annexed is within Stanislaus County, is contiguous to the existing City limits, and is within the Sphere of influence of the City of

Modesto as adopted by the Stanislaus Local Agency Formation Commission (LAFCO);  
and

WHEREAS, the Property proposed for reorganization is uninhabited as defined by Government Code Section 56079.5 (fewer than 12 registered voters), and a description of the boundaries of the subject Property is set forth in **Exhibits “A” and “B”, attached** hereto and by this reference incorporated herein, and

WHEREAS, the Property proposed for reorganization is within Stanislaus County, is contiguous to the existing City limits, and is within the Sphere of Influence of the City of Modesto as adopted by LAFCO, and

WHEREAS, the Property received a Measure M advisory vote in November 1997, and

WHEREAS, the Property has been rezoned to Specific Plan, P-SP, and Low-Density Residential, P-R-1, with land use designations of Village Residential and Open Space, and

WHEREAS, the proposed Property is not subject to a Williamson Act contract, and

WHEREAS, the proposed Property is covered by the Master Tax Sharing Agreement that addresses tax sharing entered into between the County of Stanislaus and City of Modesto which was approved on April 5, 1983, and updated in 1996, and

WHEREAS, pursuant to Government Code Section 56653, a plan for providing services is set forth in **Exhibit “C”, attached** hereto and by this reference incorporated herein, and

WHEREAS, on December 20, 2021, City of Modesto Planning Commission held a duly noticed public hearing in the Chambers, Tenth Street Place, 1010 Tenth Street, Modesto, California, at which time both oral and documentary evidence were received and considered, and

WHEREAS, after said public hearing, the City of Modesto Planning Commission adopted Resolution No. 2021-23, recommending to the City Council that it adopt the Resolution of Application for an reorganization to annex the Property to the City of Modesto, and

WHEREAS, said matter was set for public hearing of the City Council to be held on February 8, 2022, in the Tenth Street Place Chambers located at 1010 10<sup>th</sup> 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 annexation.

NOW, THEREFORE, the Council of the City of Modesto hereby finds and determines as follows:

1. The requested reorganization will result in an orderly and logical addition of land to the City.
2. The property has been rezoned to P-SP, Specific Plan, and P-R-1, Low Density Residential.
3. The Property is located within Stanislaus County, within the City's adopted Sphere of Influence, is contiguous to the existing City limits, and can be most efficiently served with City services.

4. The Property proposed to be annexed to the City of Modesto is uninhabited as defined by Government Code Section 56079.5 (fewer than 12 registered voters) and a description of the boundaries of the subject Property is set forth in **Exhibits “A” and “B”**, **attached** hereto and by this reference incorporated herein.
5. The Property is covered by the Master Tax Sharing Agreement for the sharing of property tax, sales tax, business and mill tax, and utility tax between the County of Stanislaus and City of Modesto which was approved April 5, 1983, and updated in 1996.

BE IT FURTHER RESOLVED by the Council of the City of Modesto that it hereby adopts this Resolution Authorizing Application for reorganization to annex the Property to the City of Modesto and Modesto Sewer District No. 1 and simultaneously detach the Property from the Westport and Burbank-Paradise Fire Protection Districts.

BE IT FURTHER RESOLVED by the Council of the City of Modesto that this Resolution of Application includes annexation of the Property to the Modesto Sewer District No. 1.

BE IT FURTHER RESOLVED by the Council of the City of Modesto that, pursuant to Government Code section 56653, the City Council submit the Plan for Services as set forth in **Exhibit “C”**, **attached** hereto and by this reference incorporated herein.

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 reorganization for the Property. The City of Modesto shall promptly notify the applicant of any claim, action, or proceeding.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 8th day of February, 2022, by Councilmember Wright, who moved its adoption, which motion being duly seconded by Councilmember Madrigal, was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmembers:	Escutia-Braaton, Kenoyer, Madrigal, Ricci, Wright, Zoslocki, Mayor Zwahlen
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

ATTEST:   
DANA SANCHEZ, Interim City Clerk

(SEAL)

APPROVED AS TO FORM:

BY:   
JOSE M. SANCHEZ, City Attorney

**EXHIBIT "A"**

**LEGAL DESCRIPTION**

**FAIRVIEW VILLAGE #2 REORGANIZATION**

**TO THE CITY OF MODESTO**

Legal Description: Fairview Village #2 Reorganization

All that certain real property situate in the County of Stanislaus, State of California, being a portion of the West 1/2 of Section 7, and a portion of the North 1/2 of Section 18, Township 4 South, Range 9 East, and a portion of the northeast 1/4 of Section 13 and a portion of the East 1/2 of Section 12, Township 4 South, Range 8 East M.D. B & M, described as follows:

**BEGINNING** at a point South 00°17'30" East, 324.00 feet, from the northwest section corner of Section 7, Township 4 South, Range 9 East, said point being on the west line of said Section 7 and also being the most southerly corner of the McBride Addition recorded September 18, 1963 as Instrument Number 35382, Official Records Stanislaus County, thus commencing the following 40 courses:

1. South 62°07'35" East, 494.15 feet, along the centerline of the Tuolumne River;
2. South 52°35'59" East, 412.73 feet, along the centerline of the Tuolumne River;
3. South 63°51'06" East, 386.23 feet, along the centerline of the Tuolumne River;
4. South 73°51'56" East, 331.10 feet, along the centerline of the Tuolumne River, to the northwest corner of Modesto City Council Resolution No. 96-207;
5. South 00°05'30" West, 266.00 feet more or less to a point on the easterly line of Parcel 'A' as shown on the map recorded in Book 42 of Parcel Maps, Page 2, Stanislaus County Records, said point being on the southerly right-of-way line of a 90-foot-wide Hatch Road;
6. South 00°32'31" West, 1092.16 feet, along the east line of said Parcel 'A' and the westerly line of said Resolution No. 96-207;
7. North 89°51'19" West, 326.43 feet, leaving the east line of said Parcel 'A', continuing along the westerly line of said Resolution No. 96-207;

8. South 00°15'01" East, 918.00 feet;
9. South 89°51'19" East, 975.00 feet to a point on the east line of Parcel 'C' of said Parcel Map, said east line being the westerly line of said Resolution No. 96-207;
10. South 00°15'01" East, 1132.00 feet, along the east line of said Parcel 'C' and the westerly line of said Resolution No. 96-207;
11. South 00°17'15" East, 877.58 feet, along the east line of said Parcel 'C' and the southerly continuation thereof, to the southwest corner of said Resolution No. 96-207, being a point on the north line of Parcel 'A' as shown on the map recorded in Book 31 of Parcel Maps, Page 78, Stanislaus County Records;
12. North 89°52'30" West, 690.25 feet, along north line of Parcel 'A' of said Book 31 of Parcel Maps, Page 78, to the west line of said Parcel 'A';
13. North 00°29'00" East, 35.00 feet, along said wester line, to a point on a line lying 20.00 feet southerly of and parallel with the centerline of Whitmore Avenue as shown on said Book 31 of Parcel Maps, Page 78;
14. North 89°52'30" West, 63.95 feet, along said parallel line, to the east line of Parcel 1 as shown on the map recorded in Book 26 of Parcel Maps, Page 12, Stanislaus County Records;
15. South 00°05'34" West, 30.00 feet, along said east line, to a point on the north line of said Parcel 1;
16. North 89°52'30" West, 148.00 feet, along said north line, to the west line of said Parcel 1;
17. North 00°05'34" East, 30.00 feet, along said west line, to a point on a line lying 20.00 feet southerly of and parallel with the centerline of said Whitmore Avenue;
18. North 89°52'30" West, 486.95 feet, along said parallel line, to the most easterly point of the land described in the document recorded May 8, 2018 as instrument number 2018-0031482 official records of Stanislaus County;

Thence along the southerly line of said land the following three (3) courses:

19. South 84°15'39" West, 391.51 feet;
20. North 89°52'30" West, 230.52 feet;
21. South 42°21'10" West, 38.65 feet to a point on a line lying 20.00 feet easterly of and parallel with centerline of Carpenter Road;
22. South 89°43'27" West, 80.00 feet, leaving said southerly line, to a point on the westerly line of the land described in the document recorded April 5, 2018 as instrument number 2018-0023460 official records of Stanislaus County;
23. North 39°48'24" West, 38.17 feet, along the southwesterly line of said land, to a point on the south line of said land, said south line lying 60.00 feet southerly of and parallel with the centerline line of said Whitmore Avenue;
24. North 02°25'04" West, 80.08 feet, leaving the southerly line of said land across said Whitmore Avenue, to a point on the southerly line of the 50.00 foot wide TID Canal described in Book 311, Page 103 official records of Stanislaus County;
25. North 67°37'29" East, 51.10 feet, along the southerly line of said 50.00 foot wide canal, to a point on a line lying 40.00 feet west of and parallel with the centerline of said Carpenter Road;
26. North 00°17'30" West, 53.96 feet, along said parallel line, to the northerly line of said 50.00 foot wide canal.
27. South 67°37'29" West, 21.58 feet, along said north line, to a point on a line lying 60.00 feet west of and parallel with the centerline line of said Carpenter Road, said line also being the westerly line of the dedicated right-of-way as described in the road deed recorded June 8, 2018 as instrument number 2018-0039639 official records of Stanislaus County;
28. North 00°17'30" West, 330.97 feet, along said parallel line;
29. North 03°34'04" East, 297.13 feet, leaving said parallel line and continuing along the westerly line of said land, to point on a line lying 40.00 feet west of and parallel with the centerline of said Carpenter Road, said line being the westerly line of said Carpenter Road; Thence along said westerly line the following twelve (12) courses:
30. North 00°17'30" West, 1,934.89 feet;

31. North 00°17'46" West, 329.67 feet;
32. South 89°42'14" West, 5.00 feet;
33. North 00°17'46" West, 59.62 feet;
34. North 89°42'14" East, 5.00 feet;
35. North 00°17'46" West, 587.11 feet;
36. South 89°42'14" West, 5.00 feet;
37. North 00°17'46" West, 200.36 feet;
38. Northerly along a tangent curve having a radius of 5,955.00 feet, concave westerly, through a central angle of 01°54'33", an arc distance of 198.43 feet;
39. North 02°11'54" West, 397.37 feet;
40. Northerly along a tangent curve having a radius of 6,045.00 feet, concave easterly, through central angle of 01°54'33", an arc distance of 201.43 feet;
41. North 0°17'21" West, 282.11 feet;
42. North 52°32'31" West, 31.58 feet;
43. North 00°17'21" West 114.42 feet more or less, to a point on the centerline of the Tuolumne River, said point also being on the southerly line of the said McBride Addition described above;
44. South 54°06'44" East 111.55 feet, along the centerline of said River, to the **POINT OF BEGINNING**;

Containing 177.75 Acres more or less.

APNs:

056.026.001 056.026.012 056.026.033 056.028.010 056.028.014  
056.026.006 056.026.031 056.026.034 056.028.012



**EXHIBIT “C”**  
**PLAN FOR SERVICES**  
**FAIRVIEW VILLAGE #2 REORGANIZATION**  
**TO THE CITY OF MODESTO**

**Background**

The Fairview Village #2 Reorganization area consists of 13 parcels located east of Carpenter Road, north of Whitmore Avenue, and south of the Tuolumne River. Three of the parcels are owned by the City of Modesto and six of the parcels will eventually be developed. The remaining four parcels will eventually be part of Tuolumne River Regional Park. Including adjacent roadways rights of way, the annexation is 177.75 acres total. The proposed annexation area is rezoned P-SP and P-R-1.

The purpose of the annexation is to allow residential and commercial development on the parcels rezoned P-SP and to create a logical annexation boundary for the parcels rezoned P-R-1. A Vesting Tentative Map application for residential has been filed and is being processed for 38.5 acres of the proposed annexation area.

Pursuant to Government Code Section 56653, the following Plan for Services to be extended to the affected territory has been prepared for the Fairview Village #2 Reorganization to the City of Modesto:

**A. Project Area and Service Agreements**

1. Traffic and Circulation: The annexation area is bounded by the City of Modesto to the north and east. Roadway dedication and improvements will be required along a portion of Carpenter Road as a condition of the Vesting Tentative Subdivision Map, but not as a condition of the annexation. There is currently no transit service to this area, but Modesto Area Express (MAX) is the most likely provider to extend service, as there are four routes within a mile of the site.
2. Waste Water Collection: There is an existing 10-inch line in St. Salazar Circle terminating adjacent to the proposed subdivision that will be extended to serve the area. Other lines will be extended as needed. The City’s Wastewater Treatment facilities have adequate capacity to serve this area when development is complete.
3. Water Delivery: There are several water mains in Hatch Road, Carpenter Road, and Whitmore Avenue. New development will take water from one

of these, which will be extended by the project proponent to the development area. The City of Modesto has adequate water supply to serve the annexation area.

4. Storm Water Drainage: Future residential development will be required to transport storm water to the central drainage basin.
5. Solid Waste Disposal: The annexation area is minimally developed and no need for urban waste disposal at this time. Following development, Gilton Waste Management will collect and dispose of solid waste from the site.
6. Fire Protection: The annexation area is primarily served by the Industrial Fire Protection District. However, Westport Fire Protection District's boundary is the centerline of Whitmore Avenue and Burbank-Paradise Fire Protection District's boundary is the centerline of Carpenter Road. These roadway segments will be detached from the fire protection districts. Industrial's station is about 2 miles east of the site at 148 Imperial Avenue. Modesto Fire Department's nearest station is at 420 Chicago Avenue, also about 2 miles northeast of the site. No adverse impacts on staffing or response times are expected to occur with this annexation.
7. Police Protection: Following annexation, the area will be served by Modesto Police Department. The police department has expressed no concerns about staffing or response times for this area.

**B. Level and Range of Services**

The City of Modesto is a full service provider of municipal services. The City will provide full services to the area upon annexation.

**C. When Can Services Be Provided?**

The services described above will be provided or available upon development. The project proponent will be required to construct some infrastructure prior to development in order to connect with the wastewater, water delivery, and stormwater collection systems.

**D. Improvements Required as a Condition of Annexation**

No improvements are required as a condition of annexation.

**E. How Will Services Be Financed?**

Capital facilities fees will be levied at the time building permits are issued. Funding for some services will be financed through utility and service fees,

property tax revenues, and the general fund. Additionally, a new Community Facilities District will be established to address funding of some services.

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2022-103**

**RESOLUTION FINDING THAT THE FOLLOWING SUBSEQUENT PROJECT IS WITHIN THE SCOPE OF THE PROJECT COVERED BY THE MODESTO URBAN AREA GENERAL PLAN MASTER ENVIRONMENTAL IMPACT REPORT (SCH NO. 2014042081): GENERAL PLAN AMENDMENT FROM COMMERCIAL TO VILLAGE RESIDENTIAL IN THE FAIRVIEW VILLAGE SPECIFIC PLAN, SPECIFIC PLAN AMENDMENT NO. 4, ANNEXATION OF 177.75 ACRES TO THE CITY OF MODESTO AND SIMULTANEOUS DETACHMENT FROM WESTPORT AND BURBANK-PARADISE FIRE PROTECTION DISTRICTS**

WHEREAS, on March 5, 2019, by Resolution 2019-109, City Council of the City of Modesto certified the Final Master Environmental Impact Report (“Master EIR”) (SCH No. 2014042081) for the Modesto Urban Area General Plan, and

WHEREAS, STL Company LLC, has proposed the General Plan Amendment to change the designation on approximately 23 acres in the Fairview Specific Plan area from C, Commercial, to VR, Village Residential; Amendment No. 4 to the Fairview Village Specific Plan to make the Specific Plan consistent with policies in the Urban Area General Plan, change the land use and circulation plans, and make other revisions; Fairview Village #2 Reorganization, consisting of annexation to the City of Modesto and the simultaneous detachment from the Westport and Burbank-Paradise Fire Protection Districts of 177.75 acres located east of Carpenter Road and north of Whitmore Avenue; and a Vesting Tentative Subdivision Map dividing 38.5 acres into 217 residential and 6 landscape lots, and

WHEREAS, pursuant to Section 21157.1 of the Public Resources Code, the City of Modesto’s Community & Economic Development Department prepared an Environmental Assessment Initial Study EA/C&ED 2021-31 (“Initial Study”) which analyzed whether the subsequent project may cause any significant effect

on the environment that was not examined in the Master EIR and whether the subsequent project was described in the Master EIR as being within the scope of the report, and

WHEREAS, in accordance with CEQA guidelines beginning on January 12, 2022, the City caused to be published a 20-day notice of the City's intent to make a finding that the subsequent project conforms with the Master EIR, and

WHEREAS, said matter was considered by the City Council at a duly noticed public hearing which was held on February 8, 2022, 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 general plan amendment, specific plan amendment, annexation, and vesting tentative subdivision map, a copy of which is **attached** hereto as **Exhibit "A"**, and incorporated herein by reference, and based on substantial evidence in the Initial Study makes the following findings:

1. An Initial Study was prepared by the City of Modesto that analyzed whether the subsequent project may cause any significant effect on the environment that was not examined in the Master EIR and whether the subsequent project was described in the Master EIR as being within the scope of the report.
2. The subsequent project will have no additional significant effect on the environment, as defined in subdivision (d) of Section 21158 of the Public Resources Code, that was not identified in the Master EIR.

3. No new or additional mitigation measures or alternatives are required.
4. The subsequent project is within the scope of the project covered by the Master EIR.
5. All applicable policies, regulations, and mitigation measures identified in the Master EIR have been applied to the subsequent project or otherwise made conditions of approval of the subsequent 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 8th day of February, 2022, by Councilmember Wright, who moved its adoption, which motion being duly seconded by Councilmember Madrigal, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Escutia-Braaton, Kenoyer, Madrigal, Ricci, Wright, Zoslocki, Mayor Zwahlen

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST:   
 DANA SANCHEZ, Interim City Clerk

(SEAL)

APPROVED AS TO FORM:

BY:   
 JOSE M. SANCHEZ, City Attorney

**EXHIBIT A**

Initial Study

EA/C&ED 2021-31

# **City of Modesto**

## **Finding of Conformance with the Urban Area General Plan Master EIR (SCH No. 2014042081)**

### **Initial Study Environmental Checklist C&ED No. 2021-31**

**For the proposed:**

**Fairview Village Annexation #2  
General Plan Amendment from Commercial to Village  
Residential  
Fairview Village Specific Plan Amendment #4  
Fairview Village Phase 1 Vesting Tentative Subdivision Map**

**Prepared by:  
City of Modesto  
Community & Economic Development Department  
Planning Division**

**December 10, 2021**



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# **City of Modesto**

## **Master EIR Initial Study Environmental Checklist**

### **I. PURPOSE**

CEQA allows for the limited environmental review of subsequent projects under the City's Master Environmental Impact Report ("Master EIR"). This Initial Study Environmental Checklist ("Initial Study") is used in determining whether the Fairview Village Annexation, Fairview Village Specific Plan Amendment #4, and Fairview Village Phase 1 Vesting Tentative Subdivision Map are "within the scope" of the project analyzed in the Modesto Urban Area General Plan Master EIR (SCH# 2014042081) (Public Resources Code section 21157.1). When the Initial Study supports this conclusion, the City will issue a Finding of Conformance.

A subsequent project is "within the scope" of the Master EIR when:

1. it will have no additional significant effects on the environment that were not addressed as significant effects in the Master EIR; and,
2. no new or additional mitigation measures or alternatives are required.

"Additional significant effects" means a project-specific effect that was not addressed as a significant effect in the Master EIR. [Public Resources Code Section 21158(d)]

The determination must be based on substantial evidence in the record. "Substantial evidence" means facts, reasonable assumptions predicated upon facts, or expert opinion based on facts. It does not include speculation or unsubstantiated opinion. (CEQA Guidelines Section 15384)

An environment impact report was prepared for the Fairview Village Specific Plan and certified in 1997. Since that time, there have been several major updates to the General Plan, the most recent having been adopted in 2019. Consequently, the Fairview Village Specific Plan will be evaluated against the 2019 General Plan and Master EIR (SCH# 2014042081) and the 1997 environmental document will be set aside.

### **II. PROJECT DESCRIPTION**

- A. Title: Fairview Village Annexation, Fairview Village Specific Plan Amendment #4, and Fairview Village Phase 1 Vesting Tentative Subdivision Map
- B. Address or Location: northeast of the intersection of Carpenter Road and Whitmore Avenue
- C. Applicant: Bava Family Farms  
3104 Valdez Drive  
Modesto, CA 95355
- D. City Contact Person: Cindy van Empel

Project Manager: Cindy van Empel  
Department: Community & Economic Development  
Phone Number: (209) 577.5267

E-mail address: cvanempel@modestogov.com

- E. Current General Plan Designation(s): VR, Village Residential; C, Commercial; OS, Open Space
- F. Current Zoning Classification(s): P-SP, Prezoned Specific Plan
- G. Surrounding Land Uses:
  - North: Tuolumne River, residential (city)
  - South: agriculture (county)
  - East: vacant residential and residential (city and county)
  - West: agriculture (county)
- H. Project Description, including the project type listed in Section II.C (Anticipated Future Projects) of the Master EIR (Attach additional maps/support materials as needed for complete record):

The proposed project has four components: annexation, general plan amendment, specific plan amendment, and vesting tentative subdivision map. These are described below.

#### Annexation

The westerly 177.75 acres of the Fairview Village Specific Plan area and seven lots north of Hatch Road are proposed to be annexed to the City of Modesto. This would entail the annexation of the area to Sewer District 1 and detachment of a portion of Carpenter Road from the Burbank-Paradise Fire Protection District and a portion of Whitmore Avenue from the Westport Fire Protection District. The area to be annexed includes APNs 056.026.001, 056.026.006, 056.026.007, 056.026.012, - 56.026.031-.034, 056.027.009, 056.027.009, 056.028.010, 056.028.012-.014.

#### General Plan Amendment

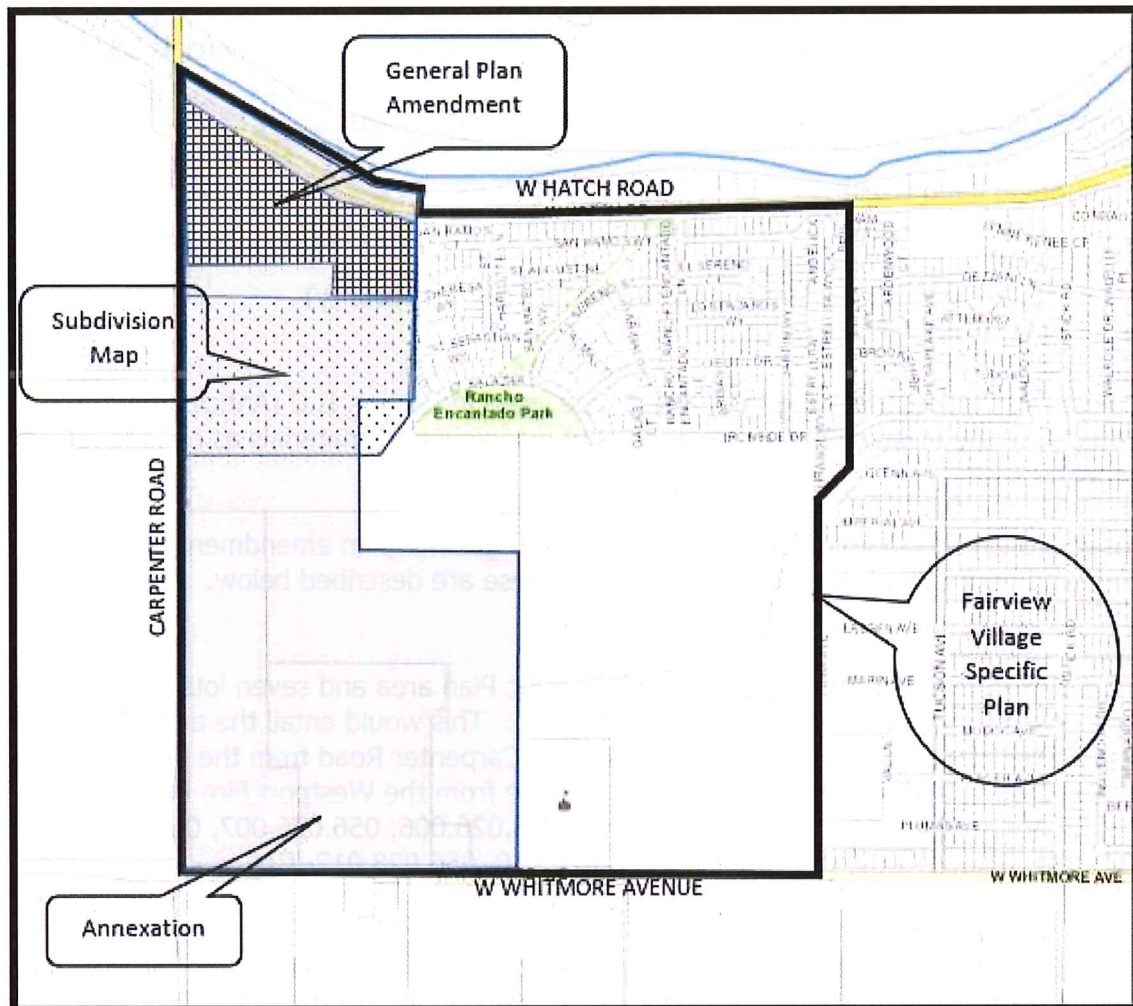
The General Plan will be amended to revise the portion of the Fairview Village Specific Plan designated C, Commercial, to VR, Village Residential. A roughly 20-acre area in the unincorporated area of the specific plan is designated C, Commercial, in the General Plan. This amendment would change that designation from C, Commercial, to VR, Village Residential. As currently conceived, the Fairview Village Specific Plan will have about 8 acres of commercial development, with the remaining 12 acres to be residential.

#### Specific Plan Amendment

Specific Plan Amendment #4 will amend storm water basin policies and agricultural preservation policies in order to be consistent with the General Plan. The circulation and land use plans will also be revised. The number of dwelling units will range from approximately 1,075-2,150 single family and 220-440 multifamily dwelling units for a total of 1,295-2,590 dwelling units, consistent with the General Plan estimate of 2,310 dwelling units. The Commercial designation would be reduced to approximately 8 acres, reflecting the reduced need for commercial square footage. The backbone street plan will be altered slightly. Finally, substantial portions of the Fairview Village Specific Plan are being revised to streamline project review, consistent with current practices of the City of Modesto.

#### Vesting Tentative Subdivision Map

The map will divide approximately 38.5 acres into 217 residential lots and six landscape lots. Residential lots range in size from 3,140 square feet to 9,825 square feet. Internal streets will have 50 feet of right of way, while external streets will have 56, 60, or 70 feet of right of way.



**FIGURE 1: Project Boundaries**

**I. Other Public Agencies Whose Approval is Required:**

Local Agency Formation Commission  
Board of Equalization

**III. FINDINGS / DETERMINATION (SELECT ONE ON THE BASIS OF THE ANALYSIS IN SECTION IV)**

**1. \_\_\_ Within the Scope** – The project is within the scope of the Master EIR and no new environmental document or Public Resources Code Section 21081 findings are required. All of the following statements are found to be true:

A. The subsequent project will have no additional significant effect on the environment, as defined in subdivision (d) of Section 21158 of the Public Resources Code, that was not identified in the Master EIR;

- B. No new or additional mitigation measures or alternatives are required;
- C. The subsequent project is within the scope of the project covered by the Master EIR; and,
- D. All applicable policies, regulations, and/or mitigation measures identified in the Master EIR have been applied to the subsequent project or otherwise made conditions of approval of the subsequent project.

2. **Mitigated Negative Declaration Required** – On the basis of the above determinations, the project is not within the scope of the Master EIR. A mitigated negative declaration will be prepared for the project. The following statements are all found to be true:

- A. The subsequent project is within the scope of the project covered by the Master EIR;
- B. All applicable policies, regulations, and mitigation measures identified in the Master EIR have been applied to the subsequent project or otherwise made conditions of approval of the subsequent project; and,
- C. The project will have one or more potential new significant effects on the environment that were not addressed as significant effects in the Master EIR. New or additional mitigation measures are being required of the project that will reduce the effects to a less than significant level.

3. **Focused EIR Required** – On the basis of the above determinations, the project is not within the scope of the Master EIR. A Focused EIR will be prepared for the project. All of the following statements are found to be true:

- A. The subsequent project is within the scope of the project covered by the Master EIR;
- B. All applicable policies, regulations, and mitigation measures identified in the Master EIR have been applied to the subsequent project or otherwise made conditions of approval of the subsequent project; and,
- C. The project will have one or more new significant effects on the environment that were not addressed as significant effects in the Master EIR. New or additional mitigation measures or alternatives are required as a result.

Synthia Charamiempel  
Project Manager

Senior Planner  
Title

16 Dec 21  
Date

**4. Within the Scope Analysis of this Document:**

The Master EIR allows projects to be found within the scope of the MASTER EIR if certain criteria are met. If the following statements are found to be true for all 20 impact categories included in this Initial Study, then the proposed project is addressed by the Master EIR analysis and is within the scope of the Master EIR. Any “No” response must be discussed.

	YES	NO
(1) The lead agency for subsequent projects shall be the City of Modesto or a responsible agency identified in the Master EIR.	X	<input type="checkbox"/>
(2) City policies that reduce, avoid, or mitigate environmental effects will continue to be in effect and, therefore, would be applied to subsequent projects where appropriate. The policies are described in the list of policies in place as “mitigating policies” attached to the Initial Study template. Project impacts would be mitigated to a less-than-significant level using the Master EIR’s mitigating policies only.	X	<input type="checkbox"/>
(3) Federal, State, regional, and Stanislaus County regulations do not change in a manner that is less restrictive on development than current law (i.e., would not offer the same level of protection assumed under the Master EIR).	X	<input type="checkbox"/>
(4) No specific information concerning the known or potential presence of significant resources is identified in future reports, or through formal or informal input received from responsible or trustee agencies or other qualified sources.	X	<input type="checkbox"/>
(5) The project will occur within the boundaries of the City’s planning area as established in the Urban Area General Plan.	X	<input type="checkbox"/>
(6) Implementation of the project will comply with all appropriate mitigating policies contained and enumerated in the 2019 Urban Area General Plan Master EIR.	X	<input type="checkbox"/>

Discussion:

- (1) Modesto City County is the lead agency for the entire project. The subdivision map cannot be implemented until and unless the annexation is approved by the Local Agency Formation Commission.
- (2) All appropriate and relevant City policies will be applied to the project.
- (3) The proposed project will not result in changes to federal, state, or local regulations. The Specific Plan Amendment will result in revisions that make the existing Fairview Village Specific Plan compliant with the existing General Plan.
- (4) No information about significant resources has been identified by the City or by agencies to which this project was referred for comment.
- (5) The project lies wholly within the City of Modesto’s General Plan boundary and Sphere of Influence.
- (6) All appropriate and relevant policies contained in the General Plan Master EIR will be applied to this project.

## 5. Currency of the Master EIR Document

The Master EIR should be reviewed on a regular basis to determine its currency, and whether additional analysis / mitigation should be incorporated into the Master EIR via a Supplemental or Subsequent EIR (CEQA Section 21157.6). Staff has reviewed Sections 1 through 20 of this document in light of the criteria listed below to determine whether the Master EIR is current. The analyses contained within the Master EIR are current as long as the following circumstances have not changed. Any “no” response must be explained.

		YES	NO
(1)	Certification of the Urban Area General Plan Master EIR occurred less than five (5) years prior to the filing of the application for this subsequent project.	<input checked="" type="checkbox"/>	<input type="checkbox"/>
(2)	The proposed project is described in the Master EIR and its approval will not affect the adequacy of the Master EIR for any subsequent project because the City can make the following findings:	<input checked="" type="checkbox"/>	<input type="checkbox"/>
(a)	No substantial changes have occurred with respect to the circumstances under which the Master EIR was certified;	<input checked="" type="checkbox"/>	<input type="checkbox"/>
(b)	No new information, which was not known and could not have been known at the time the Master EIR was certified as complete, has become available; and,	<input checked="" type="checkbox"/>	<input type="checkbox"/>
(c)	Policies that require site-specific mitigation, and avoidance or other mitigation of impacts as a prerequisite to future development, remain in full force and effect.	<input checked="" type="checkbox"/>	<input type="checkbox"/>

### Discussion:

- (1) The General Plan Master EIR was last certified on March 5, 2019. The analysis contained in the Master EIR is adequate for subsequent projects, as documented in the discussion below.
- (2) The project is consistent with the analysis contained in the Master EIR. This is documented in the discussion of the 20 individual evaluation topics within this initial study.
  - (2)(a) There have been no substantive changes to the Urban Area General Plan since the Master EIR was certified that would create additional significant environmental effects that were not analyzed by the Master EIR.
  - (2)(b) There has been no new information that would affect the adequacy of the analysis contained in the Master EIR.
  - (2)(c) All policies contained in the Master EIR that require site-specific mitigation or avoidance of impacts remain in effect and will be applied to the project as appropriate.

## IV. ENVIRONMENTAL ANALYSIS

This Initial Study, in accordance with Section 21157.1(b) of the Public Resources Code, discloses whether the proposed project may cause any project-specific significant effect(s) to the environment that was not examined in the Final Master EIR for the Urban Area General Plan, and whether new or additional mitigation measures or alternatives may be required as a result. The Initial Study thereby documents whether or not the project is “within the scope” of the Master EIR.

Pursuant to Public Resources Code Section 21157.1, no new environmental document or findings are necessary for projects that are determined to be within the scope of the Master EIR. Adoption of the

findings specified in Section III.1, above, after completion of the Initial Study fulfills the City's obligation in that situation. All environmental effects cited reflect 2040 conditions resulting from the Urban Area General Plan, as identified in the Master EIR.

The environmental impact analysis in the Master EIR for the Urban Area General Plan is organized in twenty subject / topical areas. The following analysis is based on the impact analyses contained in Chapter V of the Master EIR. For ease of reference, the sections are numbered in the same order as the analyses in Chapter V.

## **1. TRAFFIC AND CIRCULATION**

### **a. Significant Effects Identified in the Master EIR**

The Master EIR discloses the following residual significant and unavoidable traffic and circulation impacts expected after application of mitigating policies.

#### **Direct Impacts**

Effect: Increased automobile traffic will result in roadway segments (see Master EIR Table V-1-6, pages V-1-36 to V-1-39) operating at LOS D, Modesto's significance threshold for automobile traffic, or lower (LOS E or F).

Effect: The substantial increase in traffic relative to the existing load and capacity of the street system will cause, either individually or cumulatively, the violation of automobile service standards established by StanCOG's Congestion Management Plan for designated roads and highways.

Effect: A substantial increase in automobile vehicle miles traveled (see Master EIR Tables V-1-7 through V-1-10, pages V-1-44 through V-1-45).

#### **Cumulative Impacts**

Effect: Potential for growth inducement or acceleration of development resulting from highway and local road projects.

Effect: Substantial increase in traffic in relation to the existing traffic load and capacity of the street system, including a violation, either individually or cumulatively, of an automobile LOS standard established by the Congestion Management Plan for designated roads and highways.

Effect: Increased demand for capacity-enhancing alterations to existing roads or automobile traffic reduction.

Other impact categories affected by Traffic and Circulation are addressed throughout this Initial Study (see also: Section 2, Air Quality and Greenhouse Gas Emissions; Section 3, Generation of Noise; Section 18, Energy; Section 19, Visual Resources; and, Section 20, Land Use and Planning).

### **b. Urban Area General Plan Mitigating Policies Applied to the Project**

Traffic and Circulation-related mitigating policies pertinent to this project are found on Master EIR pages V-1-7 through V-1-30. All mitigating policies appropriate to the project, including any new measures, will be incorporated into or made conditions of approval of this project and are listed in Section V, "Mitigating Policies Applied to Project."

#### Discussion:

No impacts are expected and no mitigating policies from the Master EIR will be applied. No new or additional mitigation measures or alternatives are required to reduce project impacts to a less-than-significant level.

**c. Project-Specific Effects**

Section V-1.B of the Master EIR provides analysis of Traffic and Circulation impacts of development of the General Plan. The following is an analysis of whether the proposed project would result in any new, significant, project-specific effect(s) that were not disclosed in the Master EIR.

Significance Criteria: A subsequent development project will have a new significant effect on the environment if it would exceed the following thresholds / criteria:

	Potentially Significant Impact	Less Than Significant w/Mitigating Policies	Less Than Significant Impact	No Impact
<b>1. TRAFFIC AND CIRCULATION</b>				
1) The proposed project would conflict with an applicable plan, ordinance or policy (including those within the Urban Area General Plan) establishing measures of effectiveness for the performance of the circulation system, taking into account all modes of transportation including mass transit and non-motorized travel and relevant components of the circulation system including, but not limited to intersections, streets, highways and freeways, pedestrian and bicycle paths, and mass transit.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	X
2) The proposed project would conflict with an applicable congestion management program, including, but not limited to, level of service standards and travel demand measures, or other standards established by the county congestion management agency, for designated facilities.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	X
3) The proposed project would 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"/>	X
4) The proposed project would substantially increase hazards due to a design feature (e.g. sharp curves or dangerous intersections) or incompatible uses (e.g. farm equipment), or result in inadequate emergency access.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	X
5) The proposed project would conflict with adopted policies, plans, or programs regarding public transit, bicycle, or pedestrian facilities, or otherwise decrease the performance or safety of such facilities.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	X
6) The proposed project would result in projected Level of Service "D" or worse for non-exempt City of Modesto roadways, Caltrans facilities, and/or County of Stanislaus roadways.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	X

Discussion:

- (1) The project includes a specific plan amendment that would result in a range of approximately 1,075-2,150 single family and 220-440 multifamily dwelling units for a total of 1,295-2,590 dwelling units, consistent with the General Plan estimate of 2,310 dwelling units. The Commercial designation would be reduced to approximately 8 acres, reflecting the reduced need for commercial square footage. Traffic resulting from the general plan and specific plan amendments would be about the same as that assumed in the General Plan. Therefore, no impacts will occur as compared to the analysis in the General Plan Master EIR and no mitigation measures will be applied.
- (2) The project would not exceed a level of service standard established by the county congestion management agency (StanCOG). No impacts will occur.
- (3) The proposed project would not result in a change in air traffic patterns. There are no airports within two miles of the site. No impacts on airports will occur.
- (4) There are no changes to the specific plan that would increase hazards. Traffic engineering reviewed the proposal and identified no design features in the specific plan amendment or the Vesting Tentative Subdivision Map that would result in traffic hazards. No impacts have been identified and no mitigation measures will be applied.
- (5) The proposed specific plan amendment includes additional bicycle facilities that will promote the use of alternative transportation methods, consistent with General Plan policies. No impacts are anticipated and no mitigation measures will be applied.
- (6) There are no significant changes in the level of service or the volume-capacity ratio as a result of the project, and therefore there are no significant long-term traffic impacts.

## 2. AIR QUALITY AND GREENHOUSE GAS EMISSIONS

### a. Significant Effects Identified in the Master EIR

The Master EIR discloses the following residual significant and unavoidable air quality impacts expected after application of mitigating policies.

#### Direct Impacts

Effect: Expected automobile traffic will result in increased operational emissions of reactive organic gases (ROG) and oxides of nitrogen (NO<sub>x</sub>), and increased carbon monoxide (CO) levels in the project area (see Master EIR Tables V-2-4 through V-2-6, pages V-2-40 through V-2-41).

Effect: Expected construction and development activities could result in increased emissions of particulate matter 10 microns or less (PM<sub>10</sub>) and 2.5 microns or less in diameter (PM<sub>2.5</sub>) (see Master EIR page V-2-31, "2. Significant Direct Impacts").

#### Cumulative Impacts

The Master EIR indicates the same impacts identified as direct impacts above will contribute to regional impacts on air quality for the criteria pollutants ROG, NO<sub>x</sub>, PM<sub>10</sub>, and PM<sub>2.5</sub>.

### b. Urban Area General Plan Mitigating Policies Applied to the Project

Air quality-related mitigating policies that are relevant to the proposed project are found on pages V-2-8 through V-2-29 of the Master EIR. All mitigating policies appropriate to the project will be incorporated into or made conditions of approval of this project and are listed in Section V, "Mitigating Policies Applied to Project."

#### Discussion:

The appropriate policies to be applied to this project include **AQ-100, AQ-103, AQ-105, AQ-107** through **AQ-110**, and **AQ-113** through **AQ-116** from the Master EIR. No new or additional mitigation measures or alternatives are required to reduce project impacts to a less-than-significant level.

### c. Project-Specific Effects

Section V-2.B of the Master EIR is the analysis of air quality impacts resulting from development of the Urban Area General Plan. The following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not analyzed in the Master EIR.

Significance Criteria: Determination of project effects will be based on the following thresholds. The project-specific effects will be less than significant unless:

	Potentially Significant Impact	Less Than Significant w/Mitigating Policies	Less Than Significant Impact	No Impact
<b>2. AIR QUALITY AND GREENHOUSE GAS EMISSIONS</b>				
1) The proposed project would be inconsistent with the air quality and greenhouse gas emissions policies in the Urban Area General Plan.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	X
2) The proposed project would conflict with or obstruct implementation of the applicable air quality plan.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	X
3) The proposed project would violate any air quality standard or contribute substantially to existing or projected violation.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	X
4) The proposed project would result in a cumulatively considerable net increase of any criteria pollutant for which the project region is in non-attainment under 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"/>	X
5) The proposed project would expose sensitive receptors to substantial pollutant concentrations.	<input type="checkbox"/>	<input type="checkbox"/>	X	<input type="checkbox"/>
6) The proposed project would create objectionable odors affecting a substantial number of people.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	X
7) The proposed project would generate greenhouse gas emissions, either directly or indirectly, that may have a significant impact on the environment.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	X
8) The proposed project would conflict with an applicable plan, policy, or regulation adopted for the purpose of reducing the emission of greenhouse gases.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	X

Discussion:

- (1) The proposed project includes annexation of the remaining area of the Fairview Village Specific Plan to the City of Modesto, a General Plan amendment to change from C, Commercial, to VR, Village Residential, the area of the Fairview Village Specific Plan south of Hatch Road, amendment of the Fairview Village Specific Plan document to make it consistent with current General Plan policies, and a Vesting Tentative Subdivision Map to divide approximately 38.5 acres into 217 residential lots and 6 landscape lots. This project is anticipated under the General Plan. Tailpipe emissions resulting from development in this area is expected to be consistent with the emissions evaluated as part of the General Plan Master EIR, therefore, no greater impacts will occur as compared to the analysis in the General Plan Master EIR.

- (2-4) As a development project consistent with and smaller than the development anticipated in the General Plan Master EIR, impacts from this project would be less than those anticipated in the Master EIR. Therefore, the project will have no impact on air quality plans or on violations of air quality standards.
- (5-6) The project is in proximity to existing single-family development. Air quality impacts are expected from construction activities, which would be temporary in nature. Impacts would be less than significant level with mitigation measures **AQ-100, AQ-103, AQ-105, AQ-107** through **AQ-110**, and **AQ-113** through **AQ-116** from the Master EIR. No odors are expected to be released that would be inconsistent with odors from residential development.
- (7) The proposed project would result in the emission of greenhouse gases from the use of internal combustion engines used in transportation and construction and from the use of natural gas in a residential context. These impacts are consistent with impacts evaluated in the General Plan Master EIR, but would not exceed those impacts because the proposed project is consistent with the General Plan. No additional impacts are expected.
- (8) The project would not exceed emissions thresholds established by the SJVAPCD, and is consistent with the development standards for a residential use as established by the General Plan. As part of the approval process, the Air District requires the developer seek the Air District's separate approval under the Indirect Source Review Rule. No additional impacts are expected to occur, as compared to the impacts disclosed in the General Plan Master EIR.

### **3. GENERATION OF NOISE AND VIBRATION**

#### **a. Significant Effects Identified in the Master EIR**

The Master EIR discloses the following residual significant and unavoidable noise and vibration impacts expected after application of mitigating policies.

##### **Direct Impacts**

Effect: Future automobile traffic noise levels and roadway construction and maintenance activities resulting from development consistent with the Urban Area General Plan will exceed the City's noise thresholds at various locations, but particularly in areas adjacent to heavily traveled roadways (see Master EIR Table V-3-9, pages V-3-28 through V-3-31).

Effect: New noise-generating land uses could produce noise levels that would exceed the City's noise thresholds of acceptability at sensitive receptors in the vicinity.

Effect: Construction noise would cause a temporary or periodic increase in noise exposure above ambient noise levels.

Effect: Demolition and construction activities may expose people to excessive vibration levels.

##### **Cumulative Impacts**

Effect: Traffic from development in the City of Modesto would, when combined with traffic from new development in the County and other cities, contribute to a cumulative increase in roadside noise levels on major roads and highways throughout Stanislaus County.

#### **b. Urban Area General Plan Mitigating Policies Applied to the Project**

Noise policies that are pertinent to the project being analyzed in this Initial Study are found on pages V-3-18 through V-3-24 of the Master EIR. All mitigating policies appropriate to the project will be incorporated into or made conditions of approval of this project and are listed in Section V, "Mitigating Policies Applied to Project."

##### Discussion:

The appropriate policies to be applied to this project include **Noise-4, Noise-6, Noise-7, and Noise-11** from the Master EIR. No new or additional mitigation measures or alternatives are required to reduce project impacts to a less-than-significant level.

#### **c. Project-Specific Effects**

Section V-3.B of the Master EIR discloses noise impacts resulting from development of the Urban Area General Plan. The following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not analyzed in the Master EIR.

Significance Criteria: Determination of the proposed project's effects are based on the following thresholds. Project-specific effects will be less than significant unless:

	Potentially Significant Impact	Less Than Significant w/Mitigating Policies	Less Than Significant Impact	No Impact
<b>3. NOISE AND VIBRATION</b>				
1) The proposed project is inconsistent with Urban Area General Plan noise and vibration policies and standards.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	X
2) The proposed project would generate excessive ground-borne noise and/or vibration levels.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	X
3) The proposed project would result in a permanent increase of 3 dBA where any other noise threshold or standard would be exceeded, and/or 5 dBA where noise levels would otherwise fall within acceptable limits, in ambient noise levels in the project vicinity above levels existing without the project.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	X
4) The proposed project would result in a substantial temporary or periodic increase in ambient noise levels existing without the project.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	X
5) For a project located within an airport land use plan, or where such a plan has not been adopted, within two (2) miles of a public airport or public use airport, the proposed project would result in exposure of people residing or working in the project area to excessive noise levels.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	X
6) For a project within the vicinity of a private airstrip, the proposed project would expose people residing or working in the project area to excessive noise levels.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	X
7) For new residential development within 200 feet of active rail lines, the proposed project would result in noise levels generated during train passbys that exceed 50 dBA L <sub>max</sub> inside bedrooms or 55 dBA L <sub>max</sub> inside other occupied areas.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	X

Discussion:

- (1-4) The proposed project has been part of the General Plan for decades and is consistent with the noise and vibration policies contained in the General Plan. Noise and vibration expected wot occur during construction and operation of the project are expected to be consistent with similar development throughout the city and region.

Construction noise could be substantial at times, particularly during earth-moving activities for residences near new development. General Plan mitigating policies **Noise-4** and **Noise-11** would reduce those impacts, but short-term construction noise could still be substantial.

Areas of the Fairview Village Specific Plan are within the 71 dB contour along Carpenter Road, as shown on Table V.3.9 of the General Plan (with General Plan scenario). The General Plan and Specific Plan require noise attenuation when outdoor noise is expected to exceed 65 dB. A sound wall is proposed as part of the Vesting Tentative Subdivision Map, which will reduce noise impacts from Carpenter Road at adjacent residences. General Plan mitigating policies **Noise-6** and **Noise-7** will be applied to the project.

No impacts are expected greater than those evaluated in the General Plan Master EIR and no mitigation measures will be applied.

- (5-7) The project site is approximately 3 miles west-southwest of the nearest airport, the Modesto City-County Airport, and so is well outside the area most likely to experience effects from the airport. There is no private airstrip nor rail line nearby. No impact is expected to occur and no mitigation measures will be applied.

## **4. EFFECTS ON AGRICULTURAL LANDS**

### **a. Significant Effects Identified in the Master EIR**

The Master EIR discloses the following residual significant and unavoidable impacts on agricultural lands expected after application of mitigating policies.

#### **Direct Impacts**

Effect: Development consistent with the Urban Area General Plan may convert up to approximately 10,500 acres of farmland in various categories in the Planned Urbanizing Area to urban uses.

Effect: Approximately 1,100 acres of urban development along a 350-foot wide 26-mile boundary between urban and agricultural uses could be affected by continued agricultural operations, including noise, dust, and chemical overspray or drift.

#### **Cumulative Impacts**

Effect: Growth within Modesto's planning area would contribute considerably to the loss of agricultural land within Stanislaus County, accounting for the conversion of as much as approximately 10,500 acres of farmland in various categories in the Planned Urbanizing Area to 2040.

### **b. Urban Area General Plan Mitigating Policies Pertinent to the Project**

Agricultural land-related mitigating policies pertinent to the proposed project are found on pages V-4-4 to and V-4-8 of the Master EIR. All mitigating policies appropriate to the project will be incorporated into or made conditions of approval of this project and are listed in Section V, "Mitigating Policies Applied to Project."

#### Discussion:

General Plan Master EIR mitigating policy **AL-21** will be applied. No new or additional mitigation measures or alternatives are required to reduce project impacts to a less-than-significant level.

### **c. Project-Specific Effects**

Section V-4.B of the Master EIR discloses the impacts resulting from the implementation of the Urban Area General Plan on agricultural lands. The following is an analysis of whether the proposed project would result in a new, significant, project-specific effect(s) not previously analyzed in the Master EIR.

Significance Criteria: Determination of project effects will be based on the following thresholds. The project-specific effects will be less than significant unless:

	Potentially Significant Impact	Less Than Significant w/Mitigating Policies	Less Than Significant Impact	No Impact
<b>4. EFFECTS ON AGRICULTURAL RESOURCES</b>				
1) The proposed project would be inconsistent with the Urban Area General Plan policies relating to agricultural resources.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<b>X</b>
2) The proposed project would convert areas of Prime Farmland, Unique Farmland or Farmland of Statewide Importance to non-agricultural uses, impair the agricultural productivity of prime agricultural land, or result in substantial pesticide overspray, dust, or noise at urban uses.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	X
3) The proposed project would conflict with existing zoning for agricultural use, or with a Williamson Act contract.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	X
4) The proposed project would conflict with existing zoning for, or cause rezoning of, forest land or timberland.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	X
5) The proposed project would result in the loss of forest land or conversion of forest land to non-forest use.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	X
6) The proposed project would involve other changes to the environment that could result in conversion of farmland or forest land.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	X

Discussion:

- (1) The proposed project has been included in the last several versions of the General Plan and has been analyzed as part of the General Plan Master EIR. The project is consistent with General Plan policies related to agricultural resources.
- (2) Most of the annexation area is classified as prime agricultural land in the General Plan Master EIR. Therefore, the project is subject to the Stanislaus County Local Agency Formation Commission’s agricultural preservation policy (General Plan mitigation **AL-21**), which calls for 1 acre of prime farmland to be preserved for every 1 acre of prime farmland that is taken out of production. This will be made a condition of approval on the Vesting Tentative Subdivision Map and has been included as a policy in the Specific Plan Amendment.
- (3-6) There are no Williamson Act contracts in the Fairview Village Specific Plan area, nor are there any forests on the property. The proposed project will result in the direct conversion of prime farmland, discussed under item 2, but will not result in the indirect conversion of farmland, as major roadways, which are a major driver of farmland conversion already exist. Urban utilities cannot normally be extended without annexing land to a city or utility district; the utilities that will be extended to serve this portion of the Fairview Village Specific Plan will only be sized to serve this area. In order to serve areas outside of the Fairview Village Specific Plan with urban

services, separate discretionary actions would have to be made. As a result, no impacts are expected and no mitigation measures will be applied.

## **5. INCREASED DEMAND FOR LONG-TERM WATER SUPPLIES**

### **a. Significant Effects Identified in the Master EIR**

The Master EIR discloses the following residual significant and unavoidable impacts on long-term water supplies expected after application of mitigating policies.

#### **Direct Impacts**

Effect: Implementation of the Urban Area General Plan could substantially deplete groundwater supply or interfere with recharge.

Effect: Implementation of the Urban Area General Plan could necessitate construction of new water treatment facilities, or expansion of existing facilities, the construction of which could cause significant environmental effects.

Effect: Implementation of the Urban Area General Plan could necessitate expansion of existing water supply entitlements.

#### **Cumulative Impacts**

Effect: Groundwater withdrawals from both subbasins by the City, when combined with other users' withdrawals, may result in overdrafting.

Effect: Cumulative impacts resulting from construction of new water treatment facilities, or expansion of existing facilities, could cause significant environmental effects.

### **b. Urban Area General Plan Mitigating Policies Applied to the Project**

Water supply-related mitigating policies pertinent to the proposed project are found on pages V-5-11 through V-5-16 of the Master EIR. All mitigating policies appropriate to the project will be incorporated into or made conditions of approval of this project and are listed in Section V, "Mitigating Policies Applied to Project."

#### Discussion:

No impacts are expected to occur that are greater than those evaluated in the General Plan Master EIR. No mitigation measures will be applied. No new or additional mitigation measures or alternatives are required to reduce project impacts to a less-than-significant level.

### **c. Project-Specific Effects**

Section V-5.B of the Master EIR discloses impacts on long-term water supplies resulting from implementation of the Urban Area General Plan. The following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not disclosed in the Master EIR.

Significance Criteria: Determination of project effects will be based on the following thresholds. The project-specific effects will be less than significant unless:

	Potentially Significant Impact	Less Than Significant w/Mitigating Policies	Less Than Significant Impact	No Impact
<b>5. EFFECTS RELATIVE TO INCREASED DEMAND FOR LONG TERM WATER SUPPLIES</b>				
1) The proposed project is inconsistent with the Urban Area General Plan policies relating to water supply.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	X
2) The proposed project would substantially deplete groundwater supply, interfere with groundwater recharge, result in water demand exceeds the capacity for recharge or that would contribute to overdraft of the groundwater basins.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	X
3) The proposed project would require or result in the construction of new water 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"/>	X
4) The proposed project would exceed existing water supply entitlements or require expansion of entitlements.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	X

Discussion:

- (1-4) The proposed project has been included in the General Plan and its Master EIR for many years. Urban water will need to be extended to serve the annexation area and the Vesting Tentative Subdivision Map and no water supply problems are anticipated as a result. The project has been referred to Engineering staff and to the Turlock Irrigation District and no concerns with water supply were raised. No significant impact is anticipated and no mitigations will be applied.

## **6. INCREASED DEMAND FOR SANITARY SEWER SERVICES**

### **a. Significant Effects Identified in the Master EIR**

The Master EIR discloses the following residual significant and unavoidable impacts on sanitary sewer services after application of mitigating policies.

#### **Direct Impacts**

Effect: Development resulting from implementation of the Urban Area General Plan may result in exceedance of wastewater treatment requirements of the Central Valley RWQCB.

Effect: Development resulting from implementation of the Urban Area General Plan may require or result in construction of new wastewater facilities, or the expansion of existing facilities, that could cause significant effects.

Effect: Development resulting from implementation of the Urban Area General Plan may result in a finding that the wastewater treatment facilities do not have adequate capacity to serve the projected demand in addition to the provider's existing commitments.

#### **Cumulative Impacts**

Effect: Development resulting from implementation of the Urban Area General Plan may result in cumulative effects similar to those described under "direct Impacts," above.

### **b. Urban Area General Plan Mitigating Policies Applied to the Project**

Sewer service-related mitigating policies that are relevant to the proposed project are found on pages V-6-3 through V-6-7 of the Master EIR. All mitigating policies appropriate to the project will be incorporated into or made conditions of approval of this project and are listed in Section V, "Mitigating Policies Applied to Project."

#### Discussion:

No impacts are expected to occur that are greater than those evaluated in the General Plan Master EIR. No mitigation measures will be applied. No new or additional mitigation measures or alternatives are required to reduce project impacts to a less-than-significant level.

### **c. Project-Specific Effects**

Section V-6.B of the Master EIR discloses impacts on the Increased Demand for Sanitary Sewer Service resulting from implementation of the Urban Area General Plan. The following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not disclosed in the Master EIR.

Significance Criteria: Determination of project effects will be based on the following thresholds. The project-specific effects will be less than significant unless:

	Potentially Significant Impact	Less Than Significant w/Mitigating Policies	Less Than Significant Impact	No Impact
<b>6. INCREASED DEMAND FOR SANITARY SEWER SERVICES</b>				
1) The proposed project is inconsistent with wastewater policies in the Urban Area General Plan, or would exceed wastewater treatment requirements of the Central Valley RWQCB.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	X
2) The proposed project would require or result in the construction of new wastewater facilities or the expansion of existing facilities, beyond those identified improvements needed to serve the proposed project, which would cause significant effects.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	X
3) The proposed project would result in a finding that the wastewater treatment facilities do not have adequate capacity to serve the proposed project's projected demand in addition to the provider's existing commitments.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	X

Discussion:

- (1-3) Sewer service will need to be extended to the annexation area and will be extended to serve the Vesting Tentative Subdivision Map area, should the annexation be approved. The project is consistent with General Plan policies addressing development and the provision of sewer service. The project was referred to Engineering staff for review and comment and no concerns were raised regarding service or capacity. No impacts are expected and no mitigation measures will be applied.

## **7. LOSS OF SENSITIVE WILDLIFE AND PLANT HABITAT**

### **a. Significant Effects Identified in the Master EIR**

The Master EIR discloses the following residual significant and unavoidable impacts on sensitive wildlife and plant habitat expected after application of mitigating policies.

#### **Direct Impacts**

Effect: No residual significant impacts on sensitive wildlife and plant habitat are expected to occur with the application of the policies contained in the Urban Area General Plan.

#### **Cumulative Impacts**

Effect: Implementation of the Urban Area General Plan will contribute to the cumulative impact of habitat loss in the San Joaquin Valley. Requiring increased density / intensity for new development than has occurred in the past, or that is expected in the future, would minimize the City's contribution to the cumulative loss of habitat. Nonetheless, this is a significant and unavoidable impact.

### **b. Urban Area General Plan Mitigating Policies Applied to the Project**

Wildlife and plant habitat-related mitigating policies that are pertinent to the proposed project are found on pages V-7-18 through V-7-25 of the Master EIR. All mitigating policies appropriate to the project will be incorporated into or made conditions of approval of this project and are listed in Section V, "Mitigating Policies Applied to Project."

#### Discussion:

The applicable mitigating policies to be applied to this project is SWPH-14 (k) from the Master EIR. No new or additional mitigation measures or alternatives are required to reduce project impacts to a less-than-significant level.

### **c. Project-Specific Effects**

Section V-7.B of the Master EIR discloses impacts on the Loss of Sensitive Wildlife and Plant Habitat resulting from implementation of the Urban Area General Plan. The following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not disclosed in the Master EIR.

Significance Criteria: Determination of project effects will be based on the following thresholds. The project-specific effects will be less than significant unless:

	Potentially Significant Impact	Less Than Significant w/Mitigating Policies	Less Than Significant Impact	No Impact
<b>7. LOSS OF PLANT AND WILDLIFE HABITAT</b>				
1) The proposed project is inconsistent with the Urban Area General Plan policies related to loss of sensitive plant and wildlife habitat.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	X
2) The proposed project would 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"/>	X	<input type="checkbox"/>	<input type="checkbox"/>
3) The proposed project would 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"/>	X
4) The proposed project would 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"/>	X
5) The proposed project would 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"/>	X
6) The proposed project would 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"/>	X
7) The proposed project would 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"/>	X

Discussion:

- (1) The proposed project is consistent with General Plan policies related to sensitive plants and wildlife habitat. No mitigation measures will be applied.

- (2) The project applicant contracted for the preparation of a biological due-diligence review with Moore Biological Consultants. That study is contained in Appendix A. The study concluded that the property has been heavily disturbed by long-term agricultural activities, making it unlikely that special-status plant species will occur on the site and there is no critical habitat for federally listed species. Some of the larger orchard trees could provide suitable raptor nesting habitat, but no active nests were observed. Other sensitive species have been determined to be unlikely to be observed on the site. Master EIR measure **SWPH-14 (k)** shall be a condition of approval, as recommended by the biological study.
- (3-7) The proposed project is not anticipated to have an effect on wetlands or riparian habitat and would not interfere with movements of fish or wildlife, although the Tuolumne River is adjacent to the project site. Areas adjacent to the Tuolumne River are designated Open Space and will eventually be incorporated into Tuolumne River Regional Park. No sensitive natural community has been identified within the project area. Modesto has no regulations that protect biological resources and there is no habitat conservation plan in the area. No impact is anticipated and no mitigation would be applied from the Master EIR.

## **8. DISTURBANCE OF ARCHAEOLOGICAL / HISTORICAL SITES**

### **a. Significant Effects Identified in the Master EIR**

The Master EIR discloses the following residual significant and unavoidable impacts on archaeological / historical sites expected after application of mitigating policies.

#### **Direct Impacts**

Effect: Modification resulting in a substantial adverse change in the significance of a historically relevant resource, or the demolition of a listed or eligible historically relevant resource.

#### **Cumulative Impacts**

Effect: No additional cumulative impacts were disclosed in the Master EIR. The Direct impact described above could also result in a significant cumulative impact.

### **b. Urban Area General Plan Mitigating Policies Applied to the Project**

Archaeological or historic resource-related mitigating policies that are pertinent to the project being analyzed in this Initial Study are found on page V-8-16 through V-8-25 of the Master EIR. All mitigating policies appropriate to the project will be incorporated into or made conditions of approval of this project and are listed in Section V, "Mitigating Policies Applied to Project."

#### Discussion:

No impacts are expected to occur that are greater than those evaluated in the General Plan Master EIR. No mitigation measures will be applied. Policies relating to archaeological resources will only be implemented if resources are discovered during any phase of development. Measures **AH-15**, **AH-16**, **AH-17**, and **AH-18** from the General Plan Master EIR will be applied as needed and appropriate. No new or additional mitigation measures or alternatives are required to reduce project impacts to a less-than-significant level.

### **c. Project-Specific Effects**

Section V-8.B of the Master EIR discloses impacts on archaeological / historical resources resulting from implementation of the Urban Area General Plan. The following is an analysis of whether the proposed project would result in any new, significant, project-specific effect(s) not disclosed in the Master EIR.

Significance Criteria: Determination of project effects will be based on the following thresholds. The project-specific effects will be less than significant unless:

	Potentially Significant Impact	Less Than Significant w/Mitigating Policies	Less Than Significant Impact	No Impact
<b>8. ARCHAEOLOGICAL / HISTORICAL SITES</b>				
1) The proposed project is inconsistent with the Urban Area General Plan archaeological / historical resource policies.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	X
2) The proposed project would result in a modification that would result in a substantial adverse change in the significance of the resource or demolition of a listed or eligible historic resource.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	X
3) The proposed project would have an adverse effect on any structure more than 50 years old that has been determined to have historical significance per policy AH-8 as shown in the Master EIR.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	X
4) The proposed project would involve the removal of known significant resources.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	X
5) The proposed project would result in an adverse impact to undiscovered archaeological and/or paleontological resources.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	X
6) The proposed project would cause a substantial adverse change to a tribal cultural resource, as defined by State law, that is listed (or is eligible for listing) in the California Register of Historical Resources (or a local register of historical resources), or that otherwise has potential significance to a California Native American Tribe, including human remains.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	X

Discussion:

(1-6) The project is consistent with General Plan policies and lies outside the Archaeological Resources Study Area. There are no known historic or archaeological resources in the project vicinity and no impacts on these resources are expected. The proposed project has been referred to potentially affected tribal authorities in the region and none has expressed concerns. Ground disturbance could result in the discovery of unknown resources, however. In the event historic or archaeological resources are discovered during construction, mitigation measures **AH-15, AH-16, AH-17, and AH-18** will be applied as needed and appropriate.

## **9. INCREASED DEMAND FOR STORM DRAINAGE**

### **a. Significant Effects Identified in the Master EIR**

The Master EIR discloses the following residual significant and unavoidable impacts on storm drainage expected after application of mitigating policies.

#### **Direct Impacts**

Effect: No residual significant direct impacts were disclosed in the Master EIR.

#### **Cumulative Impacts**

Effect: Existing drainage inadequacies, combined with the associated increase in impervious surface areas created by pavement and structures, have the potential to increase the rate or amount of runoff in a manner that could result in flooding in the urban area. Cumulative hydrologic impacts of storm water flows from Modesto's urban areas and other areas of the County could occur due to the fixed capacity of MID and TID irrigation canals to convey drainage west to the San Joaquin River. If drainage channels in some areas prove insufficient to handle the increased drainage discharges, existing storm water runoff from urban and agricultural areas during large storm events would have to be interrupted until water levels receded to a point allowing the resumption of discharges to the channel. Ceasing discharges to drainage channels could cause inundation in and around the drainage conveyance pipeline systems, surface drainage channels, detention basins, and other urban areas. This cumulative impact is considered significant and unavoidable.

### **b. Urban Area General Plan Mitigating Policies Applied to the Project**

Storm Drainage-related mitigating policies that are pertinent to the project being analyzed in this Initial Study are found on pages V-9-4 through V-9-8. All mitigating policies appropriate to the project will be incorporated into or made conditions of approval of this project and are listed in Section V, "Mitigating Policies Applied to Project."

#### Discussion:

No impacts are expected to occur that are greater than those evaluated in the General Plan Master EIR. Measures **FWQ-11**, **FWQ-13**, **FWQ-14**, and **FWQ-16** from the Master EIR will be applied as conditions of approval. No new or additional mitigation measures or alternatives are required to reduce project impacts to a less-than-significant level.

### **c. Project-Specific Effects**

Section V-9.B of the MASTER EIR discloses impacts on the demand for storm drainage resulting from development of the Urban Area General Plan. The following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not disclosed in the Master EIR.

Significance Criteria: Determination of project effects will be based on the following thresholds. The project-specific effects will be less than significant unless:

	Potentially Significant Impact	Less Than Significant w/Mitigating Policies	Less Than Significant Impact	No Impact
<b>9. INCREASED DEMAND FOR STORM DRAINAGE</b>				
1) The proposed project is inconsistent with the Urban Area General Plan storm drainage policies.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	X
2) The proposed project would substantially increase the rate or amount of surface runoff in a manner that would result in on- or off-site flooding.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	X
3) The proposed project would create or contribute runoff water that would exceed the capacity of existing or planned storm drainage systems or provide substantial additional sources of polluted runoff.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	X

Discussion:

- (1-3) The proposed project is consistent with the storm drainage policies in the Urban Area General Plan. The project will utilize low impact strategies and meet the standards contained in the "Guidance Manual for New Development-Storm Water Quality Control Measures." This requirement will be implemented as a condition of project approval. The project was referred to the Land Development Engineering Department who indicated no concerns with storm water runoff. The project will not contribute additional water runoff that would exceed the capacity of the storm drainage system. Policies **SD-10**, **SD-12**, **SD-13**, and **SD-15** from the Master EIR will be applied as conditions of approval.

## **10. FLOODING AND WATER QUALITY**

### **a. Significant Effects Identified in the Master EIR**

The Master EIR discloses the following residual significant and unavoidable impacts on flooding and water quality expected after application of mitigating policies.

#### **Direct Impacts**

Effect: No residual significant direct impacts were disclosed in the Master EIR.

#### **Cumulative Impacts**

Effect: No residual significant cumulative impacts were disclosed in the Master EIR.

### **b. Urban Area General Plan Mitigating Policies Applied to the Project**

Flooding and Water Quality-related mitigating policies that are pertinent to the project being analyzed in this Initial Study are found on pages V-10-7 through V-10-10 of the Master EIR. All mitigating policies appropriate to the project will be incorporated into or made conditions of approval of this project and are listed in Section V, "Mitigating Policies Applied to Project."

#### Discussion:

No impacts are expected to occur that are greater than those evaluated in the General Plan Master EIR. Measures **FWQ-11**, **FWQ-13**, **FWQ-14**, and **FWQ-16** from the Master EIR will be applied as conditions of approval. No new or additional mitigation measures or alternatives are required to reduce project impacts to a less-than-significant level.

### **c. Project-Specific Effects**

Section V-10.B of the Master EIR provides analysis of Flooding and Water Quality impacts of development of the General Plan, the following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not previously analyzed in the Master EIR.

Significance Criteria: Determination of project effects will be based on the following thresholds. The project-specific effects will be less than significant unless:

	Potentially Significant Impact	Less Than Significant w/Mitigating Policies	Less Than Significant Impact	No Impact
<b>10. FLOODING AND WATER QUALITY</b>				
1) The proposed project is inconsistent with the flooding and water quality policies in the Urban Area General Plan.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	X
2) The proposed project would place housing within a 100-year flood hazard area.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	X
3) The proposed project would place structures within a 100-year floodplain as defined by FEMA.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	X
4) The proposed project would expose people or structures to a significant risk of loss, injury or death including flooding as a result of the failure of a levee or dam.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	X
5) The proposed project would substantially alter the existing drainage pattern of the site or area or the course of a stream or river that would result in flooding onsite or offsite.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	X
6) The proposed project would violate water quality standards, including groundwater standards administered by the SWRCB's DDW, standards for surface water quality such as the NPDES or waste discharge requirements.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	X
7) The proposed project would substantially alter the existing drainage pattern of the site or area or 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"/>	X
8) The proposed project would create or contribute runoff water that would provide substantial additional sources of polluted runoff 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"/>	X

Discussion:

(1, 6) The proposed project is consistent with the flooding and water quality policies in the Urban Area General Plan. This project is similar in nature to residential development in Modesto and throughout the region. No unusual impacts are expected to occur and compliance with Modesto's NPDES permit during construction will be required. Measures **FWQ-11**, **FWQ-13**, **FWQ-14**, and **FWQ-16** will be applied as conditions of approval.

(2-4) The Fairview Village Specific Plan lies outside of FEMA's 100-year floodplain boundary. The northerly portions of the seven lots that lie north of Hatch Road (FEMA FIRM Map No.

06099C0535E, September 26, 2008), however, lie within the 100-year floodplain. The 100-year floodplain is located downslope from Hatch Road in the Tuolumne River floodway. Of these seven lots, the largest three are owned by the City of Modesto. These properties are all designed OS, Open Space, and will eventually be part of the Tuolumne River Regional Park, which will substantially reduce any further risk of damage to life or property from flooding along the Tuolumne River in the Fairview Village Specific Plan.

A portion of the site is located 1-in-200 chance (200-year) flood hazard area. In accordance to the Central Valley Flood Protection Act of 2008, cities and counties are required to make findings related to an "Urban Level of Flood Protection" before approving a tentative map within a flood hazard zone. The state Department of Water Resources (DWR) has defined location criteria for determining whether or not a project is subject to urban level of flood protection requirements. The location criteria indicate that for a subdivision to be subject to the requirement, it must be located in an area with a potential flood depth above three (3) feet. Analysis of the site (Appendix B, Balance Hydrologics Assessment of Floodplain Extents and Pertinent Flood Elevations for Design, Fairview Comprehensive Planning District, City of Modesto, November 30-2017) has conservatively identified the elevation of a 200-year flooding event to be 72.21 feet, and the grading plan of the tentative map demonstrates that the lowest pad elevation is 71.1 feet. As the difference is approximately fourteen inches, the project is not subject to the urban level of flood protection requirements.

No impacts greater than those evaluated in the General Plan are expected to occur and no mitigation measures will be applied.

(5,7,8) The project will not violate water quality standards or waste discharge requirements. The project would not substantially alter the existing drainage pattern of the site, area or a watercourse in a manner that would result in erosion or siltation. The City's Land Development Engineering Staff have reviewed the project and indicated no concerns that the project would cause significant flooding or unanticipated sources of runoff. The project will not contribute additional water runoff that would exceed the capacity of the storm drainage system.

## **11. INCREASED DEMAND FOR PARKS AND OPEN SPACE**

### **a. Significant Effects Identified in the Master EIR**

The Master EIR discloses the following residual significant and unavoidable impacts on parks and open space expected after application of mitigating policies.

#### **Direct Impacts**

Effect: No residual significant direct impacts were disclosed in the Master EIR.

#### **Cumulative Impacts**

Effect: No residual significant cumulative impacts were disclosed in the Master EIR.

### **b. Urban Area General Plan Mitigating Policies Applied to the Project**

Parks and open space-related mitigating policies that are pertinent to the proposed project are found on pages V-11-2 through V-11-8 of the Master EIR. All mitigating policies appropriate to the project will be incorporated into or made conditions of approval of this project and are listed in Section V, "Mitigating Policies Applied to Project."

#### Discussion:

No impacts are expected to occur that are greater than those evaluated in the General Plan Master EIR. No mitigation measures will be applied. No new or additional mitigation measures or alternatives are required to reduce project impacts to a less-than-significant level.

### **c. Project-Specific Effects**

Section V-11.B of the MASTER EIR discloses impacts of the Urban Area General Plan on parks and open space. The following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not disclosed in the Master EIR.

Significance Criteria: Determination of project effects will be based on the following thresholds. Project-specific effects will be less than significant unless:

	Potentially Significant Impact	Less Than Significant w/Mitigating Policies	Less Than Significant Impact	No Impact
<b>11. INCREASED DEMAND FOR PARKS AND OPEN SPACE</b>				
1) The proposed project is inconsistent with the Urban Area General Plan parks and open space policies.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	X
2) The proposed project would eliminate parks or open space.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	X
3) The proposed project would not provide at least three (3) total acres of parkland and open space per 1,000 people (one acre for neighborhood park facilities; two acres for community park facilities).	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	X

Discussion:

- (1-3) The proposed project has been developed in cooperation with the Department of Parks, Recreation and Neighborhoods, which has determined that it is consistent with General Plan policies regarding parks and open space. The specific plan amendment will ensure that the central park is developed. No impacts are anticipated and no mitigation measures will be applied.

## 12. INCREASED DEMAND FOR SCHOOLS

### a. Significant Effects Identified in the Master EIR

The Master EIR discloses the following residual significant and unavoidable impacts on school facilities expected after application of mitigating policies.

#### Direct Impacts

Effect: No residual significant direct impacts were disclosed in the Master EIR. By statute, the impact of new students is considered to be mitigated below a level of significance by payment of school impact fees and the exercise of any or all of the financing options set out in Government Code Section 65997.

#### Cumulative Impacts

Effect: Similar to direct impacts resulting from implementation of the Urban Area General Plan, no residual significant direct impacts were disclosed in the Master EIR.

### b. Urban Area General Plan Mitigating Policies Applied to the Project

Mitigation relies upon the implementation of the policies in place under the Modesto Urban Area General Plan. As long these policies are applied to all subsequent projects, no new mitigation is necessary. Further, payment of school impact fees and compliance with SB 50 is statutorily deemed to be full mitigation of school impacts (Government Code Section 65995).

Schools-related mitigating policies that are relevant to the proposed project can be found on pages V-12-3 through V-12-5 of the Master EIR. All mitigating policies appropriate to the project will be incorporated into or made conditions of approval of this project and are listed in Section V, "Mitigating Policies Applied to Project."

#### Discussion:

No impacts are expected to occur that are greater than those evaluated in the General Plan Master EIR. No mitigation measures will be applied. No new or additional mitigation measures or alternatives are required to reduce project impacts to a less-than-significant level.

### c. Project-Specific Effects

Section V-12.B of the Master EIR discloses impacts resulting from implementation of the Urban Area General Plan associated with increased demand for schools. The following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not disclosed in the Master EIR.

Significance Criteria: Determination of project effects will be based on the following thresholds. The project-specific effects will be less than significant unless:

	Potentially Significant Impact	Less Than Significant w/Mitigating Policies	Less Than Significant Impact	No Impact
<b>12. INCREASED DEMAND FOR SCHOOLS</b>				

	<b>Potentially Significant Impact</b>	<b>Less Than Significant w/Mitigating Policies</b>	<b>Less Than Significant Impact</b>	<b>No Impact</b>
1) The proposed project is inconsistent with Urban Area General Plan school policies.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	X
2) The proposed project would result in new student population that exceeds the school system capacity, or if the project conflicts with established educational uses of the area, except to the limits established under SB50 / Proposition 1A as subsequently amended.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	X

Discussion:

- (1-2) The proposed project is consistent with the intensity of development anticipated to occur within the boundaries of the Fairview Village Specific Plan and is consistent with policies relating to schools in the General Plan. The application was referred to Modesto City Schools for comment. The school district expressed no concerns; new development will be assessed fees in effect at the time development occurs. No impacts are expected to occur and no mitigation measures will be applied.

### 13. INCREASED DEMAND FOR POLICE SERVICES

#### a. Significant Effects Identified in the Master EIR

The Master EIR discloses the following residual significant and unavoidable impacts on police services expected after application of mitigating policies.

##### Direct Impacts

Effect: No residual significant direct impacts were disclosed in the Master EIR.

##### Cumulative Impacts

Effect: No residual significant cumulative impacts were disclosed in the Master EIR.

#### b. Urban Area General Plan Mitigating Policies Applied to the Project

Police services-related mitigating policies that are pertinent to the proposed project are found on pages V-13-2 through V-13-5 of the Master EIR. All mitigating policies appropriate to the project will be incorporated into or made conditions of approval of this project and are listed in Section V, "Mitigating Policies Applied to Project."

##### Discussion:

No impacts are expected to occur that are greater than those evaluated in the General Plan Master EIR. No mitigation measures will be applied. No new or additional mitigation measures or alternatives are required to reduce project impacts to a less-than-significant level.

#### c. Project-Specific Effects

Section V-13.B of the Master EIR discloses impacts on police services resulting from implementation of the Urban Area General Plan. The following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not disclosed in the Master EIR.

Significance Criteria: Determination of project effects will be based on the following thresholds. The project-specific effects will be less than significant unless:

	Potentially Significant Impact	Less Than Significant w/Mitigating Policies	Less Than Significant Impact	No Impact
<b>13. INCREASED DEMAND FOR POLICE SERVICES</b>				
1) The proposed project is inconsistent with Urban Area General Plan policies relating to police service.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	X
2) The proposed project would result in development occurring in an area(s) that cannot be adequately served by existing or budgeted police personnel and facilities.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	X

Discussion:

- (1-2) The proposed project includes detachment from the Stanislaus County Sheriff's Department and attachment to the Modesto Police Department for the annexation area. The proposed project is consistent with General Plan policies having to do with policing and was referred to MPD for review and comment. MPD expressed no concerns with the proposed project. No impacts are expected and no mitigation measures will be applied.

## **14. INCREASED DEMAND FOR FIRE SERVICES**

### **a. Significant Effects Identified in the Master EIR**

The Master EIR discloses the following residual significant and unavoidable impacts on fire services expected after application of mitigating policies.

#### **Direct Impacts**

Effect: No residual significant direct impacts were disclosed in the Master EIR.

#### **Cumulative Impacts**

Effect: No residual significant cumulative impacts were disclosed in the Master EIR.

### **b. Urban Area General Plan Mitigating Policies Applied to the Project**

Fire Services-related mitigating policies pertinent to the project being analyzed in this Initial Study are found on pages V-14-3 through V-14-5 of the Master EIR. All mitigating policies appropriate to the project will be incorporated into or made conditions of approval of this project and are listed in Section V, "Mitigating Policies Applied to Project."

Discussion:

No impacts are expected to occur that are greater than those evaluated in the General Plan Master EIR. No mitigation measures will be applied. No new or additional mitigation measures or alternatives are required to reduce project impacts to a less-than-significant level.

### **c. Project-Specific Effects**

Section V-14.B of the Master EIR discloses impacts on fire services resulting from implementation of the Urban Area General Plan. The following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not disclosed in the Master EIR.

Significance Criteria: Determination of project effects will be based on the following thresholds. The project-specific effects will be less than significant unless:

	Potentially Significant Impact	Less Than Significant w/Mitigating Policies	Less Than Significant Impact	No Impact
<b>14. INCREASED DEMAND FOR FIRE SERVICES</b>				
1) The proposed project is inconsistent with Urban Area General Plan policies relating to fire service.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	X
2) The proposed project would result in any substantial adverse impact(s) associated with the need for – and/or provision of – new or physically altered fire service facilities, the construction of which could cause significant environmental impacts, in order to maintain acceptable response times.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	X

Discussion:

- (1-2) The project is consistent with the fire service policies in the General Plan. The project would not result in the need for construction of new or significantly altered facilities which could cause new significant environmental impacts in order to maintain acceptable service ratios, response times or other performance objectives. The project area will continue to be served by the Industrial Fire Protection District. Two minor detachments, from the Westport and Burbank-Paradise Fire Protection Districts will be required, but these fire protection districts currently serve only a portion of the bordering streets and do not serve any of the properties in the Fairview Village Specific Plan area. The project was referred to the Modesto City Fire Department, which indicated no concerns. No impacts are expected and no mitigation measures will be applied.

**15. GENERATION OF SOLID WASTE**

**a. Significant Effects Identified in the Master EIR**

The Master EIR discloses the following residual significant and unavoidable impacts on solid waste expected after application of mitigating policies.

**Direct Impacts**

Effect: No residual significant direct impacts were disclosed in the Master EIR.

**Cumulative Impacts**

Effect: No residual significant cumulative impacts were disclosed in the Master EIR.

**b. Urban Area General Plan Mitigating Policies Applied to the Project**

Solid waste-related mitigating policies that are pertinent to the proposed project are found on pages V-15-4 through V-15-5 of the Master EIR. All mitigating policies appropriate to the project will be incorporated into or made conditions of approval of this project and are listed in Section V, "Mitigating Policies Applied to Project."

Discussion:

No impacts are expected to occur that are greater than those evaluated in the General Plan Master EIR. No mitigation measures will be applied. No new or additional mitigation measures or alternatives are required to reduce project impacts to a less-than-significant level.

**c. Project-Specific Effects**

Section V-15.B of the Master EIR discloses solid waste impacts resulting from implementation of the Urban Area General Plan. The following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not disclosed in the Master EIR.

Significance Criteria: Determination of project effects will be based on the following thresholds. Project-specific effects will be less than significant unless:

	<b>Potentially Significant Impact</b>	<b>Less Than Significant w/Mitigating Policies</b>	<b>Less Than Significant Impact</b>	<b>No Impact</b>
<b>15. GENERATION OF SOLID WASTE</b>				
1) The project is inconsistent with the solid waste policies in the Urban Area General Plan.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	X
2) The project would result in solid waste generation that exceeds the projected capacity of existing landfills and waste-reduction facilities, or if it would result in non-compliance with any federal, state or local statutes or regulations related to solid waste.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	X

Discussion:

- (1-2) The proposed project is consistent with General Plan policies related to solid waste. There is nothing about the project that sets it apart from other similar projects in Modesto and the region. Furthermore, the project was referred to the Solid Waste Division for comment and the division had no concerns about it. No impacts are expected and no mitigation measure will be applied.

**16. GENERATION OF HAZARDOUS MATERIALS**

**a. Significant Effects Identified in the Master EIR**

The Master EIR discloses the following residual significant and unavoidable impacts regarding hazardous materials expected after application of mitigating policies.

**Direct Impacts**

Effect: No residual significant direct impacts were disclosed in the Master EIR.

**Cumulative Impacts**

Effect: No residual significant cumulative impacts were disclosed in the Master EIR.

**b. Urban Area General Plan Mitigating Policies Applied to the Project**

Hazardous materials-related mitigating policies that are pertinent to the proposed project are found on pages V-16-5 through V-16-10 of the Master EIR. All mitigating policies appropriate to the project will be incorporated into or made conditions of approval of this project and are listed in Section V, "Mitigating Policies Applied to Project."

Discussion:

No impacts are expected to occur that are greater than those evaluated in the General Plan Master EIR. No mitigation measures will be applied. No new or additional mitigation measures or alternatives are required to reduce project impacts to a less-than-significant level.

**c. Project-Specific Effects**

Section V-16.B of the Master EIR discloses impacts on hazardous materials resulting from implementation of the Urban Area General Plan. The following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not disclosed in the Master EIR.

Significance Criteria: Determination of project effects will be based on the following thresholds. The project-specific effects will be less than significant unless:

	Potentially Significant Impact	Less Than Significant w/Mitigating Policies	Less Than Significant Impact	No Impact
<b>16. HAZARDS AND HAZARDOUS MATERIALS</b>				
1) The proposed project is inconsistent with the Urban Area General Plan hazards and hazardous materials policies.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	X
2) The proposed project would create a significant hazard to the public or the environment through the routine transport, use or disposal of hazardous materials, or through reasonably foreseeable upset and accident conditions involving the release of	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	X

	Potentially Significant Impact	Less Than Significant w/Mitigating Policies	Less Than Significant Impact	No Impact
hazardous materials into the environment.				
3) The proposed project would result in hazardous materials emissions or handle hazardous materials, substances, or waste within one-quarter mile of an existing or proposed school.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	X
4) The proposed project would 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 create a significant hazard to the public or environment.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	X
5) For a project located within an airport land use plan or, where such a plan has not been adopted, within two (2) miles of a public airport or public use airport, would result in a safety hazard for people residing or working in the project area.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	X
6) For a project within the vicinity of a private airstrip, a safety hazard would result for people residing or working in the project area.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	X
7) The proposed project would 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"/>	X
8) The proposed project would 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"/>	X

Discussion:

- (1-3) The proposed project is consistent with the hazardous materials policies stated in the General Plan. No unusual hazardous materials are expected to be used, stored, or transported to and from the site, other than those that normally occur with residential and commercial development. No impacts are expected to occur and no mitigation measures will be applied.
- (4) The project area is not be located on a site which is included on a list of hazardous materials sites compiled pursuant to Government Code Section 65962.5, and as a result, would not create a significant hazard to the public or the environment. The site was evaluated for known contaminants as identified by the CA State Department of Toxic Substances Control ([www.envirostor.dtsc.ca.gov](http://www.envirostor.dtsc.ca.gov)) and the CA State Department of Water Resources ([geotracker.waterboards.ca.gov](http://geotracker.waterboards.ca.gov)) and is not shown to contain any contaminants.

- (5-6) Harry Sham field is located approximately 3 miles east-northeast of the site, which lies well outside the airport safety zones. No unusual hazards are expected to occur, due to the distance from the airport, and no mitigation measures will be applied.
  
- (7-8) No impacts from wildfires is expected to occur, as the area is not particularly susceptible to such events. The site is well-located to be evacuated, should a major emergency occur, lying as it does near State Routes 132 and 99. No mitigation measures will be applied.

## **17. GEOLOGY, SOILS, AND MINERAL RESOURCES**

### **a. Significant Effects Identified in the Master EIR**

The Master EIR discloses the following residual significant and unavoidable impacts related to geology, soils, and mineral resources expected after application of mitigating policies.

#### **Direct Impacts**

Effect: No residual significant direct impacts were disclosed in the Master EIR.

#### **Cumulative Impacts**

Effect: No residual significant cumulative impacts were disclosed in the Master EIR.

### **b. Urban Area General Plan Mitigating Policies Applied to the Project**

Geology, soils, and mineral resource-related mitigating policies that are pertinent to the proposed project are found on pages V-17-7 through V-17-10 of the Master EIR. All mitigating policies appropriate to the project will be incorporated into or made conditions of approval of this project and are listed in Section V, "Mitigating Policies Applied to Project."

#### Discussion:

No mitigation measures from the Master EIR will be applied to the proposed project. No new or additional mitigation measures or alternatives are required to reduce project impacts to a less-than-significant level.

### **c. Project-Specific Effects**

Section V-17.B of the Master EIR discloses geology, soils, and mineral resource impacts resulting from implementation of the Urban Area General Plan. The following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not disclosed in the Master EIR.

Significance Criteria: Determination of project effects will be based on the following thresholds. Project-specific effects will be less than significant unless:

	Potentially Significant Impact	Less Than Significant w/Mitigating Policies	Less Than Significant Impact	No Impact
<b>17. GEOLOGY, SOILS, AND MINERAL RESOURCES</b>				
1) The project is inconsistent with policies relating to geology, soils, and mineral resources contained in the Urban Area General Plan.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	X
2) The proposed project would expose people or structures to potential substantial adverse effects including: the risk of loss, injury, or death involving fault rupture, strong seismic activity; location on an expansive soil; loss of topsoil; or, result in the loss of availability of known mineral resources that would be of value to the region and the state.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	X

Discussion:

- (1) There are no known geological or soil issues in the project area and there are no known mineral resources in the Modesto General Plan area. No impacts are expected and no mitigation measures will be applied.
- (2) There are no known faults on or near the project site, nor is the site known to have soil problems that would impact development or that are of value to the region or to the state. No impacts are expected and no mitigation measures will be applied.

## 18. ENERGY

### a. Significant Effects Identified in the Master EIR

The Master EIR discloses the following residual significant and unavoidable impacts pertaining to energy expected after application of mitigating policies.

#### Direct Impacts

Effect: No residual significant direct impacts were disclosed in the Master EIR.

#### Cumulative Impacts

Effect: No residual significant cumulative impacts were disclosed in the Master EIR.

### b. Urban Area General Plan Mitigating Policies Applied to the Project

The following energy-related mitigating policies that are pertinent to the proposed project are found on pages V-18-2 and V-18-3 in the Master EIR. All mitigating policies appropriate to the project will be incorporated into or made conditions of approval of this project and are listed in Section V, "Mitigating Policies Applied to Project."

#### Discussion:

No MEIR mitigation measures will be applied to the proposed project. No new or additional mitigation measures or alternatives are required to reduce project impacts to a less-than-significant level.

### c. Project-Specific Effects

Section V-18.B of the Master EIR discloses impacts of implementing the Urban Area General Plan on energy resources. The following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not disclosed in the Master EIR.

Significance Criteria: Determination of project effects will be based on the following thresholds. The project-specific effects will be less than significant unless:

	Potentially Significant Impact	Less Than Significant w/Mitigating Policies	Less Than Significant Impact	No Impact
<b>18. ENERGY</b>				
1) The proposed project is inconsistent with policies relating to energy in the Urban Area General Plan.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	X
2) The proposed project would result in energy consumption during construction, operation, maintenance, or removal that is more wasteful, inefficient, and unnecessary than assumed in the	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	X

	Potentially Significant Impact	Less Than Significant w/Mitigating Policies	Less Than Significant Impact	No Impact
Urban Area General Plan.				

Discussion:

(1-2) The proposed project is consistent with the energy policies in the General Plan. No new impacts are anticipated to occur and no mitigation measures will be applied. The project would not result in energy consumption during construction, operation, maintenance or removal that is more wasteful, inefficient and unnecessary than assumed in the General Plan. No Master EIR mitigation measures will be applied.

**19. EFFECTS ON VISUAL RESOURCES**

**a. Significant Effects Identified in the Master EIR**

The Master EIR discloses the following residual significant and unavoidable impacts on visual resources expected after application of mitigating policies.

**Direct Impacts**

Effect: No residual significant direct impacts were disclosed in the Master EIR.

**Cumulative Impacts**

Effect: No additional cumulative impacts were disclosed in the Master EIR.

**b. Urban Area General Plan Mitigating Policies Applied to the Project**

The following visual resources-related mitigating policies pertinent to the proposed project are found on pages V-19-2 and V-19-3 in the Master EIR. All mitigating policies appropriate to the project will be incorporated into or made conditions of approval of this project and are listed in Section V, "Mitigating Policies Applied to Project."

Discussion:

No MEIR mitigations will be applied to the project. No new or additional mitigation measures or alternatives are required to reduce project impacts to a less-than-significant level.

**c. Project-Specific Effects**

Section V-18.B of the Master EIR discloses impacts of implementing the Urban Area General Plan on visual resources. The following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not disclosed in the Master EIR.

Significance Criteria: Determination of project effects will be based on the following thresholds. The project-specific effects will be less than significant unless:

	Potentially Significant Impact	Less Than Significant w/Mitigating Policies	Less Than Significant Impact	No Impact
<b>19. VISUAL RESOURCES</b>				
1) The proposed project is inconsistent with the Urban Area General Plan visual resource policies.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	X
2) The proposed project would have a substantial adverse effect on a scenic vista.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	X
3) The proposed project would substantially damage scenic resources, including trees, rock outcrops, and/or historic buildings along a state scenic highway.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	X
4) The proposed project would substantially degrade the existing visual character or quality of the site and its surroundings.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	X
5) The proposed project would create a new source of substantial light or glare that would adversely affect daytime or nighttime views.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	X
6) The proposed project would substantially degrade views from riverside areas and parks.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	X
7) The proposed project would substantially degrade views of riverside areas from public roadways and/or nearby properties.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	X

Discussion:

- (1) The project is consistent with the visual resources policies contained in the General Plan. No mitigation measures will be applied.
- (2-4) The project site is near the Tuolumne River, but there are no views of the river from the site and would not degrade views to riverside areas. There are no scenic resources in the Fairview Village Specific Plan area, as identified in the General Plan. The specific plan area has been planned for urban development for decades and has been evaluated as part of the General Plan Master EIR. No unanticipated impacts are expected to occur and no mitigation measures will be applied.
- (5) The proposed project will create new light and glare sources. However, this specific plan was approved in the 1990s in substantially similar form and has been included in the General Plan and Master EIR for decades. No new impacts are expected and no mitigation measures will be applied.
- (6-7) Development will be set back from the bluff above the Tuolumne River, which will prevent the degradation of river and park views in the area. Existing development at the top of the bluff will eventually be removed as part of the Tuolumne River Regional Park and, indeed, the City of Modesto already owns some of the lots at the top of the bluff. No impacts that were not evaluated in the General Plan Master EIR are expected to occur and no mitigation measures will be applied.



## **20. LAND USE AND PLANNING**

### **a. Significant Effects Identified in the Master EIR**

The Master EIR discloses the following residual significant and unavoidable impacts pertaining to land use and planning expected after application of mitigating policies.

#### **Direct Impacts**

Effect: No residual significant direct impacts were disclosed in the Master EIR.

#### **Cumulative Impacts**

Effect: No residual significant cumulative impacts were disclosed in the Master EIR.

### **b. Master EIR and/or New Mitigation Measures Applied to the Project**

The following land use and planning-related mitigating policies pertinent to the proposed project are found on pages V-20-5 through V-20-12 in the Master EIR. All mitigating policies appropriate to the project will be incorporated into or made conditions of approval of this project and are listed in Section V, "Mitigating Policies Applied to Project."

#### Discussion:

No mitigation measures will be applied to the proposed project. No new or additional mitigation measures or alternatives are required to reduce project impacts to a less-than-significant level.

### **c. Project-Specific Effects**

Section V-20.B of the Master EIR discloses impacts of implementing the Urban Area General Plan on land use and planning. The following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not disclosed in the Master EIR.

Significance Criteria: Determination of project effects will be based on the following thresholds. The project-specific effects will be less than significant unless:

	Potentially Significant Impact	Less Than Significant w/Mitigating Policies	Less Than Significant Impact	No Impact
<b>20. LAND USE AND PLANNING</b>				
1) The proposed project is inconsistent the Urban Area General Plan land use and planning policies.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	X
2) The proposed project contains elements that would physically divide an established community in a way not assumed in the Urban Area General Plan.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	X
3) The proposed project conflicts with a land use plan, policy or regulation established for the purpose of avoiding or mitigating an environmental impact by an agency that has jurisdiction over the proposed project.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	X
4) The proposed project conflicts with an applicable habitat conservation plan or natural community conservation plan.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	X

Discussion:

- (1) The Fairview Village Specific Plan area has been in the General Plan boundary for many years. The adopted Specific Plan is designated as Village Residential, which allows for a mix of uses to ensure new development has destinations nearby within walking distance.
- (2) The proposed project would remove barriers to the completion of the Fairview Village Specific Plan by annexing the remainder of the specific plan area to the City of Modesto and amending the Fairview Village Specific Plan to make it consistent with the General Plan. No impacts would occur and no mitigation measures will be applied.
- (3-4) The project is consistent with the land use plan, policies and regulations of the City of Modesto. There are no habitat conservation plans or natural community conservation plans in the vicinity, therefore, no conflict would occur. No impacts are expected, and no mitigation will be applied.

## **V. APPLICABLE URBAN AREA GENERAL PLAN MITIGATING POLICIES**

If the Initial Study results in the determination that a Finding of Conformance can be adopted for the proposed project, then Section A, below, applies. If the Initial Study results in the determination that a Finding of Conformance cannot be adopted and a Mitigated Negative Declaration or Focused EIR must be prepared for the project, then Section B, below, applies.

### **A. Urban Area General Plan Mitigating Policies Applied to the Project**

Pursuant to Public Resources Code Section 21157.1(c), in order for a Finding of Conformance to be made, all appropriate mitigating policies from the Master EIR shall be incorporated into the proposed project. Urban Area General Plan Policies that mitigate impacts shall be made part of the proposed project prior to approval by means of conditions of project approval or incorporation into the appropriate document or plan. All applicable and appropriate mitigating policies have been applied to the project (listed below).

### **B. New or Additional Mitigation Measures or Alternatives Required**

Where the project's effects would exceed the significance criteria for each environmental impact category, a mitigated negative declaration or Focused EIR must be prepared. Staff has reviewed the project against the significance criteria thresholds established in the Master EIR for all impact categories in this Initial Study.

A Mitigated Negative Declaration or Focused EIR shall be prepared for the project. The following additional project-specific mitigation measures listed below are necessary to reduce the identified new significant effect:

#### **Traffic and Circulation:**

None.

#### **Air Quality and Greenhouse Gases:**

**AQ-100.** Reduce particulate emissions from construction, grading, excavation, and demolition to the maximum extent feasible in accordance with the requirements of SJVAPCD Regulation VIII. Regulation VIII was adopted to reduce the amount of particulate matter suspended in the atmosphere as a result of emissions generated from anthropogenic (man-made) fugitive dust sources. (Policy VII.H.2.jj)

**AQ-103.** Effectively stabilize dust emissions using water, chemical stabilizer / suppressant, cover with a tarp or other suitable cover or vegetative ground cover, all disturbed areas, including storage piles, which are not being actively utilized for construction purposes. (Policy VII.H.2.mm)

**AQ-105.** Effectively control fugitive dust emissions utilizing application of water or by presoaking all land clearing, grubbing, scraping, excavation, land leveling, grading, cut & fill, and demolition activities. (Policy VII.H.2.oo)

**AQ-107.** When materials are transported off site, cover all materials, or effectively wet them to limit visible dust emissions, and maintain at least six inches of freeboard from top of container. (Policy VII.H.2.qq)

**AQ-108.** Limit operations 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.) (Policy VII.H.2.rr)

**AQ-109.** Following the addition of materials to, or the removal of materials from, the surface of outdoor storage piles, effectively stabilize said piles for fugitive dust emissions utilizing sufficient water or chemical stabilizer / suppressant. (Policy VII.H.2.ss)

**AQ-110.** Within urban areas, immediately remove trackout when it extends 50 or more feet from the site and at the end of each workday. (Policy VII.H.2.tt)

**AQ-113.** Install sandbags or other erosion control measures to prevent silt runoff to public roadways from sites with a slope greater than one percent (1%). (Policy VII.H.2.ww)

**AQ-114.** Install wheel washers for all exiting trucks, or wash all trucks and equipment leaving the site. (Policy VII.H.2.xx)

**AQ-115.** Install wind breaks at windward side(s) of construction areas. (Policy VII.H.2.yy)

**AQ-116.** Suspend excavation and grading activity when winds exceed 20 mph (regardless of windspeed, an owner/operator must comply with Regulation VIII's 20 percent opacity limit). (Policy VII.H.2.zz)

### **Generation of Noise and Vibration:**

**Noise-4.** Implement noise-reducing construction practices as conditions of approval where substantial construction-related noise impacts would be likely to occur, such as with extended periods of pile driving, or where construction is expected to continue or where sensitive receptors would be affected by construction noise. Conditions of approval may include, but are not limited to:

- Require construction equipment, including air compressors and pneumatic equipment to have properly maintained mufflers;
- Require impact tools to be equipped with shrouds or shields;
- Require that the quietest equipment available be used; and,
- Require selection of haul routes that affect the fewest number of people. (Policy VII-G.3.b)

**Noise-6.** Use the most recent noise contour map (Figure VII-2) to implement the requirements of Noise Insulation Standards contained in Title 24 of the California Code of Regulations. Developers may be allowed to demonstrate that detailed noise studies and / or mitigation are not necessary due to local conditions, changes in the expected future noise environment, or inapplicable assumptions made in the Master EIR. (Policy VII-G.3.d)

**Noise-7.** Incorporate construction practices and acoustic treatment in new residential construction to reduce typical indoor noise levels to 45 dB. Developers of residential buildings within the 65 dBA contours shown in the General Plan Master EIR shall demonstrate that interior noise has been reduced to 45 dB. Other types of development should be protected against noise intrusion at least to the levels indicated on UAGP Table VII-2. (Policy VII-G.3.e)

**Noise-11.** Limit trucking to specific routes, times, and speeds that avoid or minimize adverse effects on sensitive receptors. (Policy VII-G.3.i)

### **Effects on Agricultural Lands:**

**AL-21.** Require development projects to comply with current LAFCo policy(ies) regarding preservation of agricultural resources. (Policy VII-D.4[f])

### **Increased Demand for Long-Term Water Supplies:**

There are no standard / typical examples of general plan policies that would mitigate project-specific impacts for this category. Water studies / analyses may be required depending on the scope or location of the proposed development project.

### **Increased Demand for Sanitary Sewer Services:**

There are no standard / typical examples of general plan policies that would mitigate project-specific impacts for this category. Sanitary sewage generation and/or capacity studies may be required depending on the scope or location of the proposed development project.

### **Loss of Sensitive Wildlife and Plant Habitat:**

#### **SWPH-14 (k).**

The State-threatened Swainson's hawk is known to nest within the General Plan Area in grassland, riparian, and agricultural habitats. Because of the loss of suitable foraging habitat and existing nesting habitat that may occur during area development, mitigation measures compensating for these potential losses of habitat shall be included. The CDFW considers the removal of known raptor nest trees, even outside of the nesting season, to be a significant impact under CEQA and, in the case of Swainson's hawk, could also result in "take" under the CESA. This is especially true in species such as Swainson's hawk, which exhibit high site fidelity to nest trees and nesting area year after year (CDFG 1994).

To avoid such impacts, surveys for nesting Swainson's hawk shall be conducted for projects within riparian, grassland, and agricultural habitats as mapped by Figure V-7-1 or for projects within 0.25 mile of such habitats (see Figure V-7-2) and containing potential nest trees (trees greater than 20 feet in height). Surveys shall follow the methodology developed by the Swainson's Hawk Technical Advisory Committee (2000) and survey potential nest trees within 0.25 mile of disturbance activities.

- If ground disturbance is initiated during the nesting season (March 15 – July 31), two pre-construction surveys shall be conducted with surveys not recommended between April 20 and June 10 because of difficulty in detecting active Swainson's hawk nests during the egg incubation period. The first survey may be conducted up to two months prior to initial activities. The second survey shall occur within 14 days of project initiation.
- If an active nest is observed, a no-disturbance buffer zone shall be established in coordination with CDFW. No-disturbance buffers for new and intensive disturbances are typically 0.25 mile surrounding the nest location until the nest has been determined to no longer be active by a qualified biologist; however, the buffer may be reduced in consultation with CDFW and is dependent upon nest location, existing disturbance barriers, and baseline disturbance levels.
- No surveys are required if ground disturbance is initiated outside of the nesting season; however, impacts to known nest trees should be avoided at all times of year. If avoidance of a known nest tree (documented nest site within the previous five years) is not feasible,

consultation with the CDFW is warranted prior to taking any action, and a determination of "take" potential under CESA or under Fish and Game Code Sections 3503.5 and 3513 will be made. Project-related "take" (as defined in Section 86 of the Fish and Game Code) of Swainson's hawk must be completely avoided or a State Incidental Take Permit, pursuant to Section 2081 of the Fish and Game Code, would be warranted.

In addition, the Staff Report Regarding Mitigation for Impacts to Swainson's Hawks in the Central Valley of California (CDFG 1994) recommends that for projects impacting foraging habitat within one mile of an active nest tree, habitat be protected in perpetuity at a 1:1 ratio for each acre of Swainson's hawk foraging habitat impacted; for projects greater than one mile but within five miles of an active nest tree, 0.75 acre of habitat should be protected in perpetuity for every acre of foraging habitat impacted (0.75:1); and for projects greater than 5 miles but within ten miles of an active nest tree, 0.5 acre of habitat should be protected in perpetuity for every acre of foraging habitat impacted (0.5:1). Per the Staff Report (CDFG 1994), suitable foraging habitat includes annual grasslands, pasturelands, alfalfa and cereal cropland, fallow fields, and beet, tomato, and other low-growing row or field crops. Vineyards, orchards, and cotton fields are considered unsuitable foraging habitat because of vegetation height and/or density (CDFG 1994). The project sponsor should provide funding of a sufficient long-term endowment for the management of the protected properties.

### **Disturbance of Archaeological / Historic Sites:**

**AH-15.** Whenever possible, 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, green space, or other open space;
- (3) Covering the sites with a layer of chemically stable soil; and/or,
- (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 Section 7050.5; Guidelines Section 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 Section 15126.4(b)). (Policy VII.F.2[l])

**AH-16.** Allow reasonable time 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. (Policy VII.F.2[m])

**AH-17.** 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) will meet to determine the appropriate course of action. (Policy VII.F.2[n])

**AH-18.** All cultural materials recovered as part of a monitoring program are subject to scientific analysis, professional museum curation, and a report prepared according to current professional standards. (Policy VII.F.2[o])

**Increased Demand for Storm Drainage:**

**SD-10.** Construction activities shall comply with the requirements of the City's Stormwater Management Plan under its municipal NPDES stormwater permit, and the State Water Resources Control Board's General Permit for Discharges of Storm Water Associated with Construction Activity. (Policy VI.G.3)

**SD-12.** Ensure that new development complies with the City of Modesto's *Stormwater Management Program: Guidance Manual for New Development Stormwater Quality Control Measures*. (Policy VI.G.5)

**SD-13.** Require new development to implement an appropriate selection of permanent pollution control measures in accordance with the City's implementation policies for the municipal NPDES stormwater permit. (Policy VI.G.6)

**SD-15.** Integrate Low Impact Development principles into proposed development projects' design. Low Impact Development is a storm water management and land development strategy that promotes conservation and use of natural on-site features combined with engineered small-scale hydrologic devices. In designing development projects, minimize the amount of impervious surface in order to maximize on-site infiltration of stormwater runoff and minimize the potential for storm water runoff from the site. (Policy VI.G.8)

**Flooding and Water Quality:**

**FWQ-11.** Construction activities shall comply with the requirements of the City's Storm Water Management Plan under its municipal NPDES stormwater permit, and the State Water Resources Control Board's General Permit for Discharges of Storm Water Associated with Construction Activity. (Policy VI.G.3)

**FWQ-13.** Ensure that new development complies with the City of Modesto's Stormwater Management Program: *Guidance Manual for New Development Stormwater Quality Control Measures*. (Policy VI.G.5)

**FWQ-14.** Require new development to implement an appropriate selection of permanent pollution control measures in accordance with the City's implementation policies for the municipal NPDES stormwater permit. (Policy VI.G.6)

**FWQ-16.** Integrate Low Impact Development principles into proposed development projects' design. Low Impact Development is a storm water management and land development strategy that promotes conservation and use of natural on-site features combined with engineered small-scale hydrologic devices. In designing development projects, minimize the amount of impervious surface in order to maximize on-site infiltration of stormwater runoff and minimize the potential for storm water runoff from the site. (Policy VI.G.8)

**Increased Demand for Parks and Open Space:**

None.

**Increased Demand for Schools:**

None.

**Increased Demand for Police Services:**

None.

**Increased Demand for Fire Services:**

None.

**Generation of Solid Waste:**

None.

**Generation of Hazardous Materials:**

None.

**Geology, Soils, and Mineral Resources:**

None.

**Energy:**

None.

**Effects on Visual Resources:**

None.

**Land Use and Planning:**

None.

# APPENDIX A

MOORE BIOLOGICAL CONSULTANTS, April 6, 2021



# MOORE BIOLOGICAL CONSULTANTS

April 6, 2021

Mr. Patrick Tysell  
Tim Lewis Communities  
3500 Douglas Blvd., Suite 270  
Roseville, CA. 95661

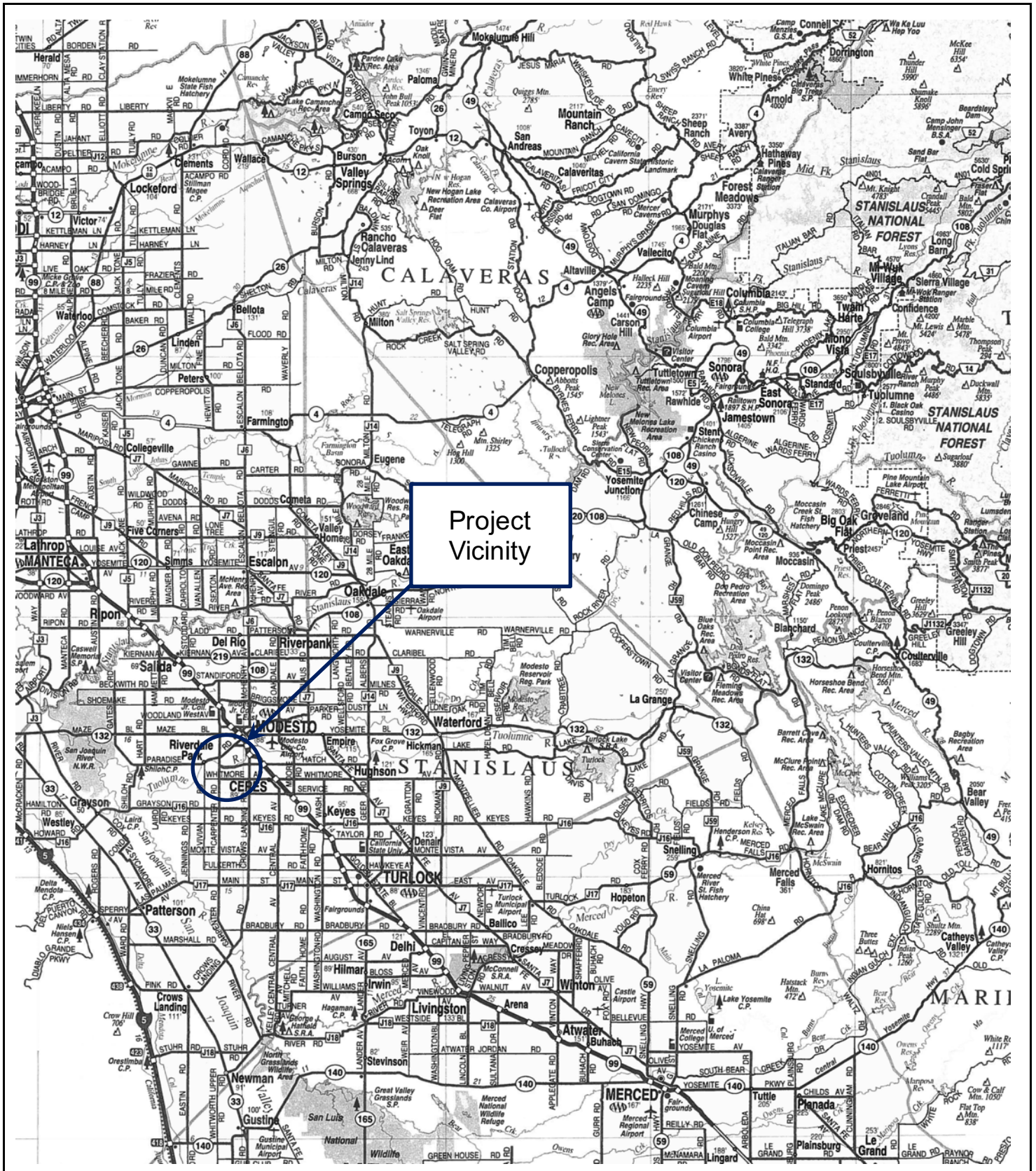
SUBJECT: "40+/- ACRE "FAIRVIEW VILLAGE" SITE, MODESTO,  
CALIFORNIA: BIOLOGY DUE-DILIGENCE REVIEW

Dear Patrick:

Thank you for asking Moore Biological Consultants to assist with a biological resources due-diligence review of this 40+/- acre site in Modesto, Stanislaus County, California (Figures 1 and 2). The proposed acquisition consists of a block of almond orchards envisioned for residential development (see Site Plan in Attachment A). The review was conducted to identify any potentially significant biological resource obstacles to timely and cost-effective development on the site. The work involved reviewing databases and available documents, conducting surveys to document habitats present in the site, and searching the site for potentially jurisdictional Waters of the U.S. or wetlands and suitable habitat for or presence of special-status species. This report details the methodology and results of our investigation.

## **Executive Summary**

The site is a leveled field that has been farmed for decades and currently supports an almond orchard. Overall, the site is biologically unremarkable. No potentially jurisdictional Waters of the U.S. or wetlands were observed in the site.



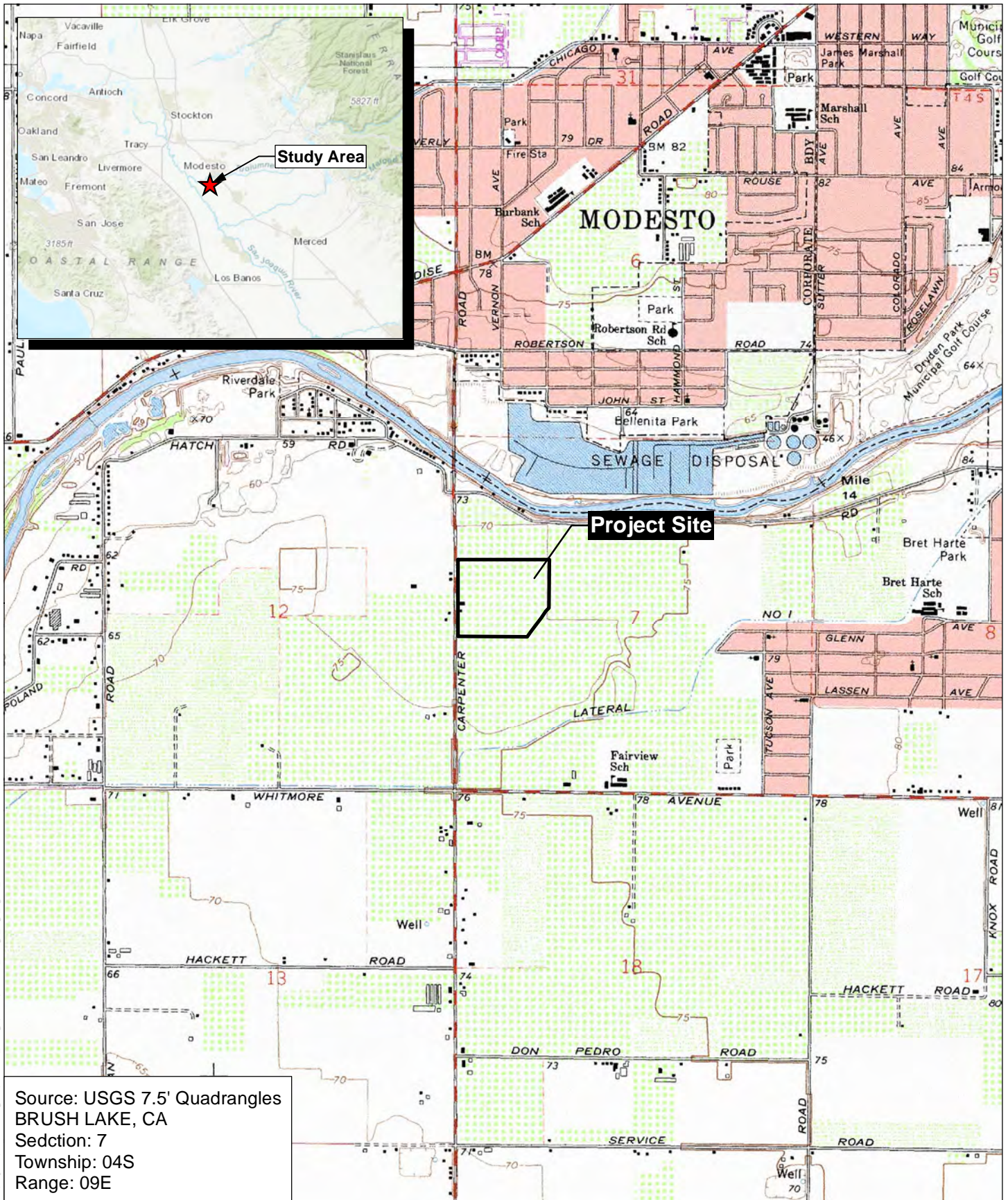
Source: California State Automobile Association

**Moore Biological Consultants**



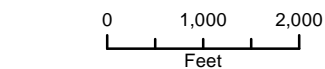
**FIGURE 1**

**PROJECT VICINITY**



**Figure 2**

Moore Biological  
Consultants



Map Date: 01/29/2021



**USGS**

**Fairview Village**

City of Modesto, Stanislaus County, CA

Due to a lack of suitable habitat, it is unlikely that special-status plants occur in the site. No special-status wildlife species were observed in the site or are expected to occur in the site on more than a very occasional or transitory basis. The site is not within designated critical habitat of any federally listed species.

## Methods

California Department of Fish and Wildlife's (CDFW) California Natural Diversity Database (CNDDDB, 2021) was searched prior to the field survey. The CNDDDB search included the USGS 7.5-minute Salida, Riverbank, Brush Lake and Ceres topographic quadrangles, which encompass approximately 240 square miles surrounding the site. The United States Fish and Wildlife Service (USFWS) IPaC Trust Report of Federally Threatened and Endangered species that may occur in or be affected by projects in the project's geographical area was also reviewed (Attachment B). This information was used to identify wildlife and plant species that have been previously documented in the project vicinity or have the potential to occur based on suitable habitat and geographical distribution. The USFWS on-line-maps of designated critical habitat were also downloaded.

An early morning field survey was conducted on February 3, 2021. The survey consisted of walking throughout the site making observations of site conditions and noting surrounding land use, general habitat types, and plant and wildlife species. The survey included an assessment of the site for presence or absence of potentially jurisdictional Waters of the U.S. (a term that includes wetlands) as defined by the U.S. Army Corps of Engineers (ACOE, 1987; 2008), special-status species, and suitable habitat for special-status species (e.g., blue elderberry shrubs, vernal pools). Additionally, trees in and near the site were assessed for the potential use by nesting raptors, especially Swainson's hawk (*Buteo swainsoni*). The site was also searched for burrowing owls (*Athene cunicularia*) or ground squirrel burrows that could be utilized by burrowing owls.

## Results

GENERAL SETTING: The project site is in Modesto, in Stanislaus County, California (Figure 1). The site is in Section 7, in Township 4 South, Range 9 East of the USGS 7.5-minute Brush Lake topographic quadrangle (Figure 2). The site is leveled and is at an elevation of approximately 70 feet above mean sea level.

The site consists of an almond orchard with a few farm roads separating the blocks of trees (Figure 3 and photographs in Attachment C). There is a small residence, barn, and a few other structures along the west edge of the site, fronting on Carpenter Road. The rows between the trees in the site are routinely mowed; vegetation in the site consisted of common ruderal species and recently sprouted grasses and weeds.

Land uses in this portion of Stanislaus County are primarily residential and agricultural. Carpenter Road borders the west edge of the site and Monticello Lane borders the east edge of the site. Saint Salazar Circle abuts the southeast part of the site. The north and south edges of the site are bordered by rows of orchard trees as the site boundary cuts through an existing larger orchard (see Figure 3). There is a residential subdivision and small park just east of the site and two larger ranchette-style parcels west of the site, across Carpenter Road.

VEGETATION: Habitats in the site are highly disturbed from intensive farming for decades and. The site appears to be periodically mowed and or/disked and supports ruderal grassland vegetation (see photographs in Attachment C). The California annual grassland series (Sawyer and Keeler-Wolf, 1995) best describes the vegetation in the site. Annual bluegrass (*Poa annua*) and riggut brome (*Bromus diandrus*) are the dominant grasses in the site. Other grassland species such as Russian thistle (*Salsola tragus*), shepherd's purse (*Capsella bursa-pastoris*), clasping henbit (*Lamium amplexicaule*), common mallow (*Malva neglecta*), and filaree (*Erodium botrys*) are intermixed with the grasses. Plant species observed in the site are listed in Table 1.



**Project Site**

S Carpenter Rd

Monticello Ln

San Ramos Ct

Saint Theresa Way

Saint Sebastian Way

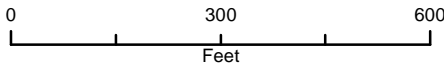
Salazar Cir

Saint Charlotte Ln

**Figure 3**

Moore Biological Consultants

Map Date: 01/29/2021  
Aerial Source: Google Earth (08/2019)



**AERIAL**

**Fairview Village**

City of Modesto, Stanislaus County, CA

C:\Users\owner\Documents\FEC\_IN\Projects\Moore Biological\Fairview\_Village\MXD\Fairview\_village\_aerial\_Figure\_3.mxd

TABLE 1  
PLANT SPECIES OBSERVED IN THE SITE

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<i>Acmispon americanus</i>	Spanish lotus
<i>Avena</i> sp.	oat
<i>Bromus diandrus</i>	ripgut brome
<i>Capsella bursa-pastoris</i>	shepherd's purse
<i>Cerastium glomeratum</i>	mouse ear chickweed
<i>Erigeron bonariensis</i>	flax-leaved horseweed
<i>Erigeron canadensis</i>	Canada horseweed
<i>Erodium botrys</i>	long beak stork's bill
<i>Lamium amplexicaule</i>	clasping henbit
<i>Leontodon saxatilis</i>	hawkbit
<i>Malva neglecta</i>	common mallow
<i>Poa annua</i>	annual bluegrass
<i>Salsola tragus</i>	Russian thistle
<i>Sonchus oleraceus</i>	common sowthistle
<i>Urtica dioica</i>	stinging nettle

---

The only trees or shrubs within the project site beyond the almond trees within the orchard are a few ornamental species and fruit trees associated with the home site. There are several ornamental landscape trees associated with nearby residential subdivisions, larger home parcels, and associated with the park situated just east of the site. No blue elderberry (*Sambucus nigra* ssp. *caerulea*) shrubs were observed in or adjacent to the site.

WILDLIFE: Several bird species common to Stanislaus County were observed during the survey. American crow (*Corvus brachyrhynchos*), mourning dove (*Zenaida macroura*), California scrub jay (*Aphelocoma californica*), white-crowned sparrow (*Zonotrichia leucophrys*), yellow-rumped warbler (*Setophaga coronata*), and Brewer's blackbird (*Euphagus cyanocephalus*) are representative bird species observed in and near the site (Table 2).

TABLE 2  
WILDLIFE SPECIES DOCUMENTED IN THE SITE

**Birds**

Great blue heron	<i>Ardea herodias</i>
American kestrel	<i>Falco sparverius</i>
Rock dove	<i>Columba livia</i>
Mourning dove	<i>Zenaida macroura</i>
Nuttall's woodpecker	<i>Picoides nuttallii</i>
California scrubjay	<i>Aphelocoma californica</i>
Yellow-billed magpie	<i>Pica nuttalli</i>
American crow	<i>Corvus brachyrhynchos</i>
Ruby-crowned kinglet	<i>Regulus calendula</i>
American robin	<i>Turdus migratorius</i>
Northern mockingbird	<i>Mimus polyglottos</i>
Cedar waxwing	<i>Bombycilla cedrorum</i>
European starling	<i>Sturnus vulgaris</i>
Yellow-rumped warbler	<i>Zonotrichia atricapilla</i>
White crowned sparrow	<i>Zonotrichia leucophrys</i>
Brewer's blackbird	<i>Euphagus cyanocephalus</i>
American goldfinch	<i>Spinus tristis</i>
House sparrow	<i>Passer domesticus</i>

The site contains orchard trees, a few of which are relatively large, that are potentially suitable for nesting by a variety of migratory birds, including raptors. No large raptor stick nests were observed in the on-site trees. There are also several trees near the site that could potentially be used by nesting raptors. A remnant raptor stick nest was observed in a large tree associated with a residence approximately 200 feet west of the site. The nest was not occupied during the survey. Smaller birds, such as songbirds, likely nest in these trees within or adjacent to the site. A few common songbirds were observed perching

in trees and flying throughout the orchard trees during the field survey; none of these birds were exhibiting nesting behavior and no active nests were observed.

A few mammals common to urban and agricultural areas may occur on the project site on occasion. No mammals were observed in the site during the field survey. No California ground squirrel (*Otospermophilus beecheyi*) burrows were observed in or adjacent to the site. Common species such as desert cottontail (*Sylvilagus audubonii*), coyote (*Canis latrans*), raccoon (*Procyon lotor*), striped skunk (*Mephitis mephitis*), black-tailed hare (*Lepus californicus*), and Virginia opossum (*Didelphis virginiana*) may occur in the site on occasion.

Due to lack of suitable habitat, only a few amphibians and reptiles are expected to occur in the site and none were observed during the field survey. Common species such as Pacific chorus frog (*Pseudacris regilla*), western fence lizard (*Sceloporus occidentalis*), western skink (*Eumeces skiltonianus*), and western terrestrial garter snake (*Thamnophis elegans*) may occur on the site on occasion.

WATERS OF THE U.S. AND WETLANDS: Waters of the U.S., including wetlands, are broadly defined under 33 Code of Federal Regulations (CFR) 328 to include navigable waterways, their tributaries, and adjacent wetlands. State and federal agencies regulate these habitats and Section 404 of the Clean Water Act requires that a permit be secured prior to the discharge of dredged or fill materials into any waters of the U.S., including wetlands. Some jurisdictional waters of the U.S. also fall under the jurisdiction of CDFW and/or the California Regional Water Quality Control Board (RWQCB).

“Waters of the U.S.”, as defined in 33 CFR 328.4, encompasses Territorial Seas, Tidal Waters, and Non-Tidal Waters; Non-Tidal Waters includes interstate and intrastate rivers and streams, as well as their tributaries. The limit of federal jurisdiction of Non-Tidal Waters of the U.S. extends to the “ordinary high water mark”. The ordinary high water mark is established by physical characteristics

such as a natural water line impressed on the bank, presence of shelves, destruction of terrestrial vegetation, or the presence of litter and debris.

Jurisdictional wetlands are vegetated areas that meet specific vegetation, soil, and hydrologic criteria defined by the ACOE *Wetlands Delineation Manual* and Regional Supplement (ACOE, 1987; 2008). Jurisdictional wetlands are usually adjacent to or hydrologically associated with Waters of the U.S. Isolated wetlands are outside federal jurisdiction, but may be regulated by RWQCB under the State Wetlands Program.

Jurisdictional wetlands and Waters of the U.S. include, but are not limited to, perennial and intermittent creeks and drainages, lakes, seeps, and springs; emergent marshes; riparian wetlands; and seasonal wetlands. Wetlands and Waters of the U.S. provide critical habitat components, such as nest sites and a reliable source of water, for a wide variety of wildlife species.

No potentially jurisdictional Waters of the U.S. and wetlands were observed in the site. Specifically, no vernal pools, seasonal wetlands, marshes, ponds, creeks, or lakes of any type were observed in the site. The body of the site has been leveled and farmed for decades. Soils appear well draining and the orchard floors support upland grasses and weeds. No areas within the project site meet the technical and regulatory criteria of jurisdictional Waters of the U.S. or wetlands. There are no areas within the site mapped as aquatic features in the National Wetland Inventory (NWI) (Attachment D).

**SPECIAL-STATUS SPECIES:** Special-status species are plants and animals that are legally protected under the state and/or federal Endangered Species Act or other regulations. The Federal Endangered Species Act (FESA) of 1973 declares that all federal departments and agencies shall utilize their authority to conserve endangered and threatened plant and animal species. The California Endangered Species Act (CESA) of 1984 parallels the policies of FESA and pertains to native California species.

Special-status species also include other species that are considered rare enough by the scientific community and trustee agencies to warrant special consideration, particularly with regard to protection of isolated populations, nesting or denning locations, communal roosts, and other essential habitat. The presence of species with legal protection under the Endangered Species Act often represents a constraint to development, particularly when the species are wide-ranging or highly sensitive to habitat disturbance and where proposed development would result in a take of these species.

Special-status plants are those which are designated rare, threatened, or endangered and candidate species for listing by the USFWS. Special-status plants also include species considered rare or endangered under the conditions of Section 15380 of the California Environmental Quality Act Guidelines, such as those plant species identified on Lists 1A, 1B and 2 in the Inventory of Rare and Endangered Vascular Plants of California by the California Native Plant Society (CNPS, 2021). Finally, special-status plants may include other species that are considered sensitive or of special concern due to limited distribution or lack of adequate information to permit listing or rejection for state or federal status, such as those included on List 3 in the CNPS Inventory.

The likelihood of occurrence of listed, candidate, and other special-status species in the work areas is generally low. Table 3 provides a summary of the listing status and habitat requirements of special-status species that have been documented in the greater project vicinity or for which there is potentially suitable habitat in the greater project vicinity. This table also includes an assessment of the likelihood of occurrence of each of these species in the site. The evaluation of the potential for occurrence of each species is based on the distribution of regional occurrences (if any), habitat suitability, and field observations.

SPECIAL-STATUS PLANTS: Heartscale (*Atriplex cordulata*), subtle orache (*Atriplex subtilis*), and prairie wedge grass (*Sphenopholis obtusata*) are the only special-

TABLE 3

## SPECIAL-STATUS PLANT AND WILDLIFE SPECIES DOCUMENTED IN THE GREATER PROJECT VICINITY

Common Name	Scientific Name	Federal Status <sup>1</sup>	State Status <sup>1</sup>	CNPS List <sup>2</sup>	Habitat	Likelihood of Occurrence in the Project Site
<b>PLANTS</b>						
Heartscale	<i>Atriplex cordulata</i>	None	None	1B	Valley and foothill grassland, chenopod scrub; within areas with alkaline or saline soils.	Unlikely: the orchard does not provide suitable habitat for heartscale; the upland grassland in the site is highly disturbed and routinely mowed. The nearest occurrence of this species in the CNDDDB (2021) search area is approximately 9 miles southeast of the site.
Subtle orache	<i>Atriplex subtilis</i>	None	None	1B	Valley and foothill grassland, in areas with alkaline soils.	Unlikely: the upland grassland in the site is disturbed and does not provide suitable habitat for subtle orache. The nearest occurrence of this species in the CNDDDB (2021) search area is approximately 9 miles southeast of the site.
Prairie wedge grass	<i>Sphenopholis obtusata</i>	None	None	2B	Cismontane woodland and meadows and seeps.	Unlikely: The site does not provide suitable habitat for prairie wedge grass. The nearest occurrence of this species in the CNDDDB (2021) search area is approximately 2.5 miles southwest of the site.
<b>WILDLIFE BIRDS</b>						
Tricolored blackbird	<i>Agelaius tricolor</i>	None	T	N/A	Nests in dense brambles and emergent wetland vegetation associated with open water habitat.	Unlikely: there is no suitable nesting habitat in or adjacent in the site to support nesting tricolored blackbird. The nearest occurrence of this species in the CNDDDB (2021) search area is approximately 4.5 miles southwest of the site.
Swainson's hawk	<i>Buteo swainsoni</i>	None	T	N/A	Breeds in stands of tall trees in open areas. Requires adjacent suitable foraging habitats such as grasslands or alfalfa fields supporting rodents.	Low: larger orchard trees in the site and other large trees in adjacent parcels are potentially suitable for nesting Swainson's hawks. There is a remnant raptor stick nest in a tree approximately 200 feet west of the site that may be used by nesting Swainson's hawks during some years. The orchard does not provide suitable Swainson's hawk foraging habitat. The nearest occurrence of nesting Swainson's hawks in the CNDDDB (2021) search area is approximately 5 miles northeast of the site.

TABLE 3

## SPECIAL-STATUS PLANT AND WILDLIFE SPECIES DOCUMENTED IN THE GREATER PROJECT VICINITY

Common Name	Scientific Name	Federal Status <sup>1</sup>	State Status <sup>1</sup>	CNPS List <sup>2</sup>	Habitat	Likelihood of Occurrence in the Project Site
Burrowing owl	<i>Athene cunicularia</i>	None	SC	N/A	Open, dry annual or perennial grasslands, deserts and scrublands characterized by low-growing vegetation.	Unlikely: no ground squirrel burrows were observed in or adjacent to the project site and this species is not known to occur in large numbers in this part of Stanislaus County. The nearest occurrence of this species in the CNDDDB (2021) search area is approximately 7 miles west of the site.
<b>MAMMALS</b>						
Townsend's big-eared bat	<i>Corynorhinus townsendii</i>	None	SC	N/A	Desert scrub, mixed conifer forest, and pinyon-juniper or pine forest; primarily roosts in caves, mines and buildings.	Unlikely: the site does not contain suitable roosting habitat for this species. The nearest occurrence of Townsend's big-eared bat in the CNDDDB (2021) search area is approximately 7 miles northeast of the site.
<b>REPTILES &amp; AMPHIBIANS</b>						
Giant garter snake	<i>Thamnophis gigas</i>	T	T	N/A	Freshwater marsh and low gradient streams; adapted to drainage canals and irrigation ditches, primarily for dispersal or migration.	Unlikely: the site does not provide suitable habitat for giant garter snake, which is not known from the area. There are no occurrences of this species in the CNDDDB (2021) search area.
California tiger salamander	<i>Ambystoma californiense</i>	T	T	N/A	Breeds in seasonal water bodies such as deep vernal pools or stock ponds. Requires small mammal burrows for summer refugia.	Unlikely: there is no breeding habitat for California tiger salamander in or near the site. The nearest occurrence of this species in the CNDDDB (2021) search area is approximately 7 miles northwest of the site. The site is not within an area designated critical habitat for this species (USFWS, 2005a).
California red-legged frog	<i>Rana aurora draytonii</i>	T	SC	N/A	Lowlands and foothills in or near permanent sources of water with vegetation.	Unlikely: there is no suitable aquatic habitat for California red-legged frog in or near the site. California red-legged frog is not known from the area and there are no occurrences of this species in the CNDDDB (2021) search area. The site is not in designated for this species (USFWS, 2006).

TABLE 3

## SPECIAL-STATUS PLANT AND WILDLIFE SPECIES DOCUMENTED IN THE GREATER PROJECT VICINITY

Common Name	Scientific Name	Federal Status <sup>1</sup>	State Status <sup>1</sup>	CNPS List <sup>2</sup>	Habitat	Likelihood of Occurrence in the Project Site
Northern California legless lizard	<i>Anniella pulchra</i>	None	SC	N/A	Sandy or loose loamy soils under sparse vegetation.	Unlikely: the site does not provide habitat for this species. The nearest occurrence of northern California legless lizard in the CNDDDB (2021) search area is approximately 10.5 miles northeast of the site.
<b>FISH</b>						
Delta smelt	<i>Hypomesus transpacificus</i>	T	T	N/A	Shallow lower delta waterways with submersed aquatic plants and other suitable refugia.	None: there is no suitable aquatic habitat for delta smelt in or near the site. There are no occurrences of delta smelt recorded in the CNDDDB (2021) within the search area. There is no designated critical habitat for delta smelt (USFWS, 1994) in or near the site.
Hardhead	<i>Mylopharodon conocephalus</i>	None	SC	N/A	Clear, deep pools with sand and gravel bottoms in tributaries to the San Joaquin and Sacramento River.	None: there is no aquatic habitat for the hardhead in the site. The nearest occurrence of hardhead in the CNDDDB (2021) search area is just north of the site within the Tuolumne River.
Central Valley steelhead	<i>Oncorhynchus mykiss</i>	T	None	N/A	Riffle and pool complexes with adequate spawning substrates within Central Valley drainages.	None: there is no aquatic habitat in the site to support Central Valley steelhead. The nearest occurrence of Central Valley steelhead in the CNDDDB (2021) search is just north of the site within the Tuolumne River.
<b>INVERTEBRATES</b>						
Vernal pool tadpole shrimp	<i>Lepidurus packardii</i>	E	None	N/A	Vernal pools and seasonally wet depressions within the Central Valley.	None: there are no vernal pools or seasonal wetlands in the site. The nearest occurrence of vernal pool tadpole shrimp in the CNDDDB (2021) search area is approximately 9.5 miles northwest of the site. The site is not within designated critical habitat for this species (USFWS, 2005b).
Vernal pool fairy shrimp	<i>Branchinecta lynchi</i>	T	None	N/A	Vernal pools and seasonally inundated depressions in the Central Valley.	None: there are no vernal pools or seasonal wetlands in the site. The nearest occurrence of vernal pool fairy shrimp in the CNDDDB (2021) search area is approximately 8 miles west of the site. The site is not within designated critical habitat for this species (USFWS, 2005b).

TABLE 3

## SPECIAL-STATUS PLANT AND WILDLIFE SPECIES DOCUMENTED IN THE GREATER PROJECT VICINITY

Common Name	Scientific Name	Federal Status <sup>1</sup>	State Status <sup>1</sup>	CNPS List <sup>2</sup>	Habitat	Likelihood of Occurrence in the Project Site
Valley elderberry longhorn beetle	<i>Desmocerus californicus dimorphus</i>	T	None	N/A	Elderberry shrubs in the Central Valley and surrounding foothills	None: there are no blue elderberry shrubs in or adjacent to the site. The nearest occurrence of valley elderberry longhorn beetle recorded in the CNDDDB (2021) search area is mapped nonspecifically around the City of Modesto and is noted to occur in areas along the Tuolumne River.
Crotch bumble bee	<i>Bombus crotchii</i>	N	CE	N/A	Open grassland and scrub habitats throughout California; rarely found in the Central Valley.	Unlikely: the site does not provide high quality habitat to support Crotch bumble bee. The nearest occurrence of this species in the CNDDDB (2021) search area is a large area mapped nonspecifically around the City of Modesto.

## Notes:

- 1 T= Threatened; E = Endangered; R = Rare; CE = Candidate Endangered; SC = Species of Special Concern per California Department of Fish and Wildlife.
- 2 CNPS List 1B includes species that are rare, threatened, or endangered in California and elsewhere.

status plants identified in the CNDDDB (2021) search. No additional special-status species are identified in the USFWS IPaC Trust Report (Attachment B).

Special-status plants generally occur in relatively undisturbed areas in vegetation communities such as vernal pools, marshes and swamps, seasonal wetlands, riparian scrub, and areas with unusual soils. All of the special-status plants identified in Table 3 occur in habitat types that do not occur in the site. The site contains ruderal grassland species that is routinely disked, mowed, and/or sprayed; the site has been historically farmed for decades and is not suitable for special-status plants. No special-status plants or potentially suitable habitat for special-status plants were observed in the site. Due to lack of suitable habitat, it is unlikely that special-status plants occur in the site.

SPECIAL-STATUS WILDLIFE: Special-status wildlife species recorded in project area in the CNDDDB (2021) query include Swainson's hawk, tricolored blackbird (*Agelaius tricolor*), burrowing owl, Townsend's big-eared bat (*Corynorhinus townsendii*), northern California legless lizard (*Anniella pulchra*), California tiger salamander (*Ambystoma californiense*), Central valley steelhead (*Oncorhynchus mykiss*), hardhead (*Mylopharodon conocephalus*), valley elderberry longhorn beetle (*Desmocerus californicus dimorphus*), vernal pool tadpole shrimp (*Lepidurus packardii*), vernal pool fairy shrimp (*Branchinecta lynchi*), and Crotch bumble bee (*Bombus crotchii*).

California red-legged frog (*Rana aurora draytonii*), giant garter snake (*Thamnophis gigas*), delta smelt (*Hypomesus transpacificus*), are not recorded in the CNDDDB (2021) within the search area, but are on the USFWS IPaC Trust Report (Attachment B).

While the project site may have provided habitat for several of the special-status wildlife species listed in Table 3 at some time in the past, intensive farming and development have substantially modified natural habitats in the greater project vicinity, including those in the site. Swainson's hawk is the only species identified

in the CNDDDB that has much potential to occur in the site on more than a transitory or very occasional basis and is discussed below.

**SWAINSON'S HAWK:** The Swainson's hawk is a migratory hawk listed by the State of California as a Threatened species. The Migratory Bird Treaty Act and Fish and Game Code of California protect Swainson's hawks year-round, as well as their nests during the nesting season (March 1 through September 15).

Swainson's hawk are found in the Central Valley primarily during their breeding season, a population is known to winter in the San Joaquin Valley.

Swainson's hawks prefer nesting sites that provide sweeping views of nearby foraging grounds consisting of grasslands, irrigated pasture, hay, and wheat crops. Orchards and vineyards are not suitable for foraging. Most Swainson's hawks are migratory, wintering in Mexico and breeding in California and elsewhere in the western United States. This raptor generally arrives in the Central Valley in mid-March, and begins courtship and nest construction immediately upon arrival at the breeding sites. The young fledge in early July, and most Swainson's hawks leave their breeding territories by late August.

The CNDDDB (2021) contains a few records of nesting Swainson's hawk in the greater project vicinity with the nearest being approximately 5 miles northeast of the project site. While the orchard does not provide suitable Swainson's hawk foraging habitat, annual cropland and grasslands in the region provide suitable foraging habitat for this species.

A majority of the orchard trees in the site are mature and could potentially be large enough to support nesting raptors, including Swainson's hawks. However, it is more likely Swainson's hawks would choose to nest in larger non-orchard trees in the project vicinity that are in closer proximity to foraging areas. There are a few potential nest trees in the site and in close proximity to the site that could potentially be suitable for nesting Swainson's hawks and a remnant raptor

stick nest in a tree approximately 200 feet west of the site associated with a residence.

OTHER SPECIAL-STATUS SPECIES: Other special-status birds including tricolored blackbird and burrowing owl may fly over the site on occasion, but would not be expected to nest within the project site. No ground squirrel burrows were observed in or adjacent to the site and burrowing owls are not known to occur in high densities in this part of Stanislaus County.

There is no suitable roosting habitat in the site to support Townsend's big-eared bat as this species primarily roosts in caves or developed forest environments. The ruderal grassland in the site does not provide suitable habitat for northern California legless lizard. The site does not provide suitable aquatic habitat for any type of fish, giant garter snake, California red-legged frog, and California tiger salamander. There are no vernal pools or seasonal wetlands in the site for vernal pool branchiopods (i.e., fairy and tadpole shrimp). No blue elderberry shrubs were observed in the site, precluding the presence of valley elderberry longhorn beetle. The site lacks the floristic requirements to support Crotch bumble bee, which also rarely occurs in the Central Valley.

CRITICAL HABITAT: The site is not in designated critical habitat for any special-status plant, California red-legged frog (USFWS, 2006), federally listed vernal pool shrimp or plants (USFWS, 2005a), California tiger salamander (USFWS, 2005b), valley elderberry longhorn beetle (USFWS, 1980), delta smelt (USFWS, 1994), or Central Valley steelhead (NOAA, 2005) (Attachment E).

## **Conclusions and Recommendations**

- The site consists of dense orchard trees and highly disturbed grassland that has been subject to routine mowing, disking, and/or spraying. On-site habitats are biologically unremarkable.

- No potentially jurisdictional wetlands or Waters of the U.S. were observed in the site.
- Due to a lack of suitable habitat, it is unlikely that special-status plants occur in the site.
- The site does not provide suitable Swainson's hawk foraging habitat. The project will not result in the conversion of Swainson's hawk foraging habitat and will not contribute to a cumulative loss of Swainson's hawk foraging habitat.
- Swainson's hawk is the only special-status species with potential to occur in the site on more than a transitory or occasional basis. Although no evidence of this species was observed in the site, Swainson's hawks could establish nesting territories within the site or in adjacent habitats.
- A pre-construction survey for nesting Swainson's hawks within 0.25 miles of the project site is recommended if construction commences between March 1 and September 15. If active nests are found, a qualified biologist should determine the need (if any) for temporal restrictions on construction. The determination should utilize criteria set forth by CDFW (CDFG, 1994).
- Trees and grasslands in the site could be used by birds protected by the Migratory Bird Treaty Act of 1918. If vegetation removal or construction commences during the general avian nesting season (March 1 through July 31), a pre-construction survey for all species of nesting birds is recommended. If active nests are found, work in the vicinity of the nests should be delayed until the young fledge.
- The site is not within designated critical habitat for any federally listed species.

We hope this information is useful. Please call me at (209) 745-1159 with any questions.

Sincerely,



Diane S. Moore, M.S.  
Principal Biologist

## References and Literature Consulted

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Attachment A

Site Plan

PLAN REVISIONS		
NO.	DATE	REVISION



1165 Scenic Drive, Suite A  
Modesto, CA 95350  
odellengineering.com

**FAIRVIEW VILLAGE**  
**PHASE 1**  
MODESTO, CALIFORNIA

**PRELIMINARY LAYOUT**

APPROVED: \_\_\_\_\_

DESIGNED: MP  
DRAWN: JJB  
CHECKED: MP  
SCALE: 1" = 80'  
DATE: 01/18/2021  
JOB NO.: JOB NO.: 36601  
FILE NO.: EX-FAIRVIEW VILLAGE-36601.DWG

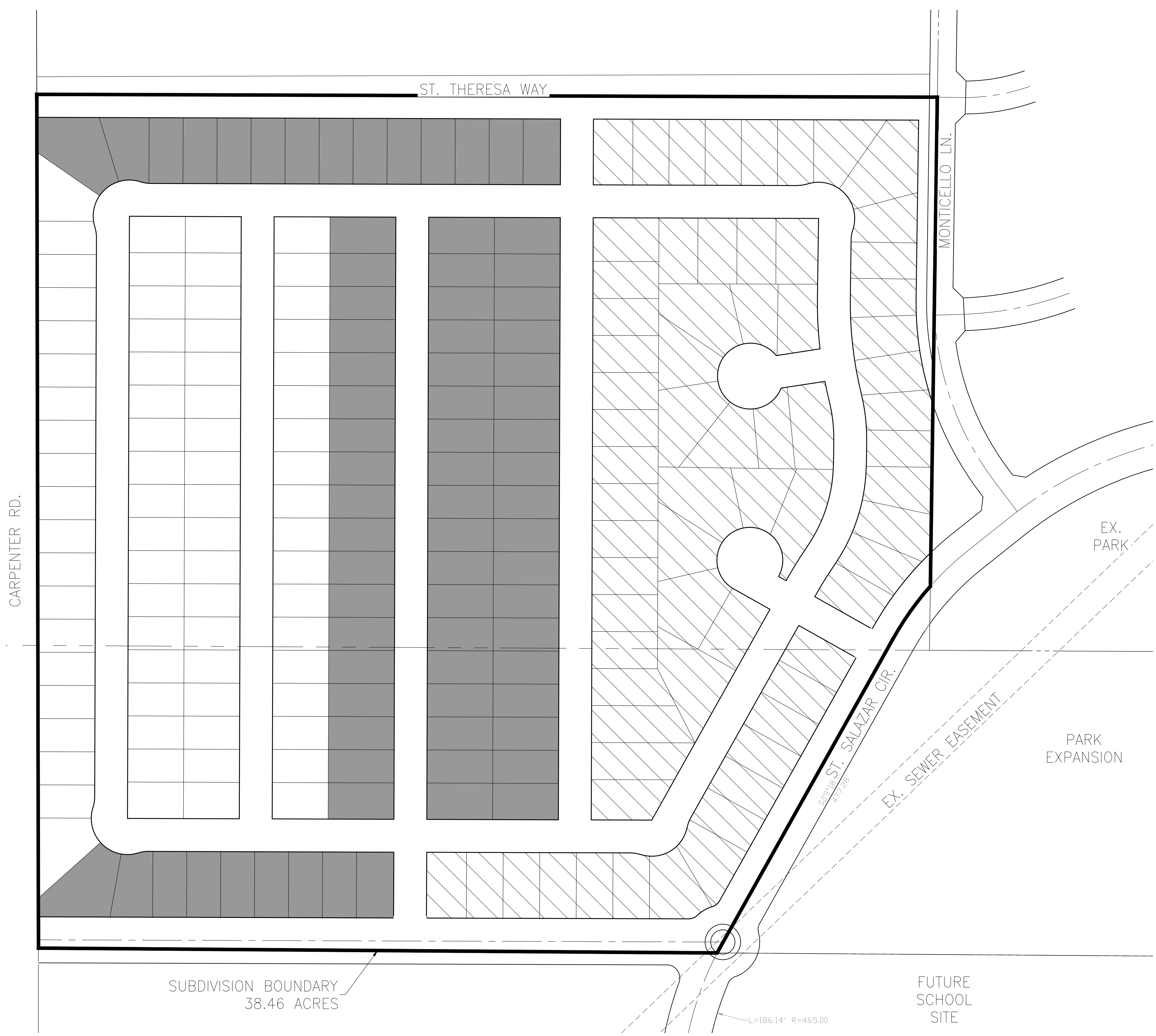
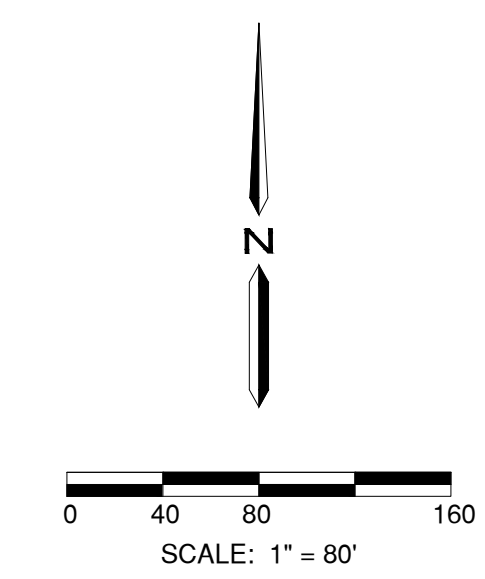
SHEET NO.  
**1**  
OF  
**1**



**LEGEND**

- 74 - 50'x85' LOTS
- 77 - 50'x100' LOTS
- 68 - 55'x100' LOTS

219 TOTAL LOTS



H:\36601-Fairview Village\_TLO\Civil\Exhibits\EX-Fairview Village-36601.dwg jeyonmeu 12:53:18 01/18/2021

## Attachment B

# CNDDDB Summary Report and Exhibits & USFWS IPaC Trust Resource Report



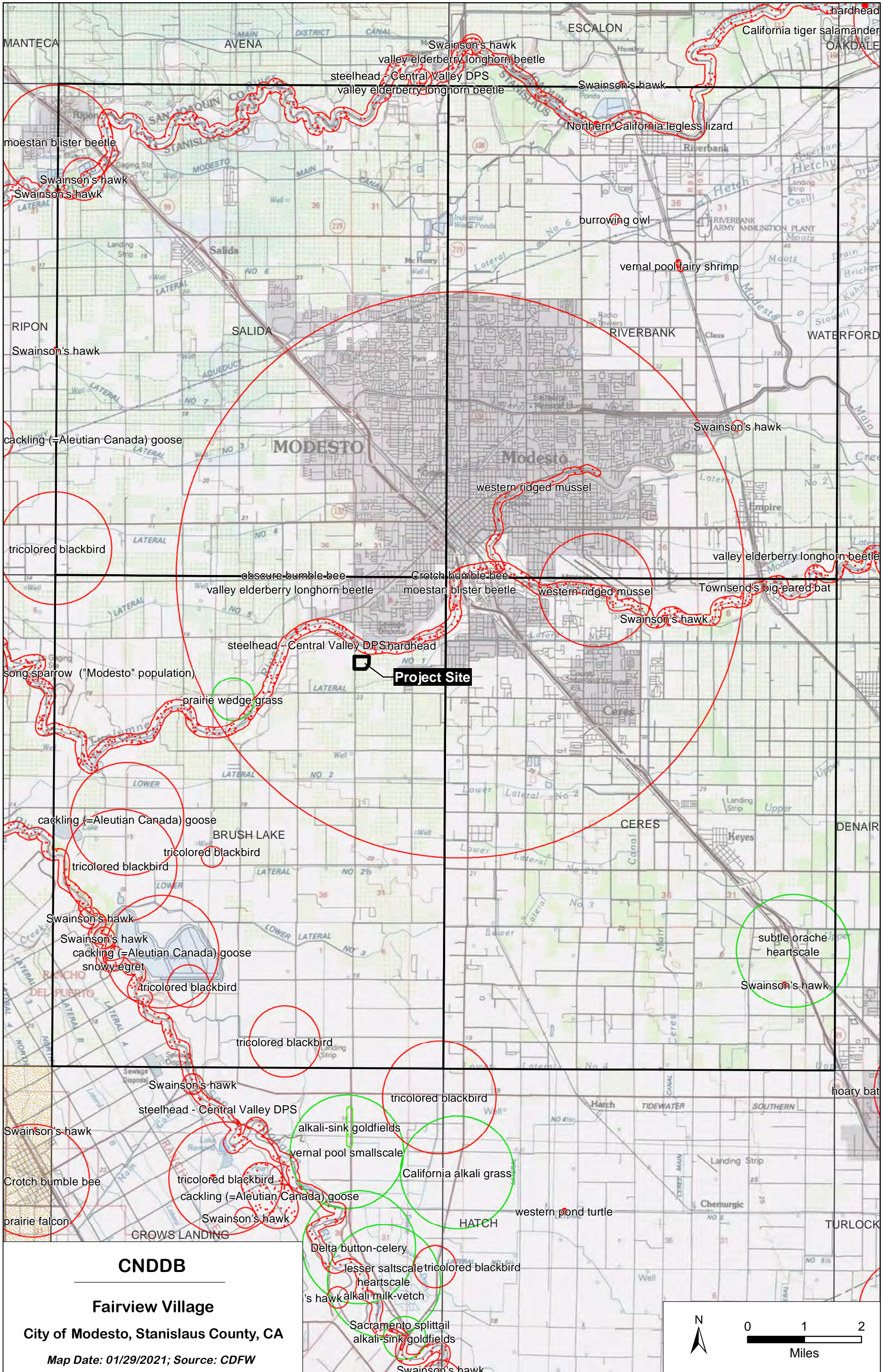
**Selected Elements by Scientific Name**  
**California Department of Fish and Wildlife**  
**California Natural Diversity Database**



**Query Criteria:** Quad IS (Salida (3712161) OR Riverbank (3712068) OR Brush Lake (3712151) OR Ceres (3712058))

Species	Element Code	Federal Status	State Status	Global Rank	State Rank	Rare Plant Rank/CDFW SSC or FP
<b><i>Agelaius tricolor</i></b> tricolored blackbird	ABPBXB0020	None	Threatened	G2G3	S1S2	SSC
<b><i>Ambystoma californiense</i></b> California tiger salamander	AAAAA01180	Threatened	Threatened	G2G3	S2S3	WL
<b><i>Anniella pulchra</i></b> Northern California legless lizard	ARACC01020	None	None	G3	S3	SSC
<b><i>Ardea herodias</i></b> great blue heron	ABNGA04010	None	None	G5	S4	
<b><i>Athene cunicularia</i></b> burrowing owl	ABNSB10010	None	None	G4	S3	SSC
<b><i>Atriplex cordulata var. cordulata</i></b> heartscale	PDCHE040B0	None	None	G3T2	S2	1B.2
<b><i>Atriplex subtilis</i></b> subtle orache	PDCHE042T0	None	None	G1	S1	1B.2
<b><i>Bombus caliginosus</i></b> obscure bumble bee	IIHYM24380	None	None	G4?	S1S2	
<b><i>Bombus crotchii</i></b> Crotch bumble bee	IIHYM24480	None	Candidate Endangered	G3G4	S1S2	
<b><i>Branchinecta lynchi</i></b> vernal pool fairy shrimp	ICBRA03030	Threatened	None	G3	S3	
<b><i>Branta hutchinsii leucopareia</i></b> cackling (=Aleutian Canada) goose	ABNJB05035	Delisted	None	G5T3	S3	WL
<b><i>Buteo swainsoni</i></b> Swainson's hawk	ABNKC19070	None	Threatened	G5	S3	
<b><i>Corynorhinus townsendii</i></b> Townsend's big-eared bat	AMACC08010	None	None	G3G4	S2	SSC
<b><i>Desmocerus californicus dimorphus</i></b> valley elderberry longhorn beetle	IICOL48011	Threatened	None	G3T2	S3	
<b><i>Egretta thula</i></b> snowy egret	ABNGA06030	None	None	G5	S4	
<b><i>Gonidea angulata</i></b> western ridged mussel	IMBIV19010	None	None	G3	S1S2	
<b><i>Lepidurus packardii</i></b> vernal pool tadpole shrimp	ICBRA10010	Endangered	None	G4	S3S4	
<b><i>Lytta moesta</i></b> moestan blister beetle	IICOL4C020	None	None	G2	S2	
<b><i>Mylopharodon conocephalus</i></b> hardhead	AFCJB25010	None	None	G3	S3	SSC
<b><i>Oncorhynchus mykiss irideus pop. 11</i></b> steelhead - Central Valley DPS	AFCHA0209K	Threatened	None	G5T2Q	S2	
<b><i>Sphenopholis obtusata</i></b> prairie wedge grass	PMPOA5T030	None	None	G5	S2	2B.2

**Record Count: 21**



MANTECA AVENA DISTRICT CANAL ESCALON OAKDALE  
 Swainson's hawk valley elderberry longhorn beetle  
 steelhead - Central Valley DPS valley elderberry longhorn beetle Swainson's hawk  
 Swainson's hawk Northern California legless lizard  
 moestan blister beetle Swainson's hawk Swainson's hawk  
 Ripon Salida Modesto Riverbank  
 Swainson's hawk burrowing owl vernal pool fairy shrimp  
 RIPON SALIDA RIVERBANK WATERFORD  
 Swainson's hawk Swainson's hawk  
 cackling (=Aleutian Canada) goose western ridged mussel  
 tricolored blackbird valley elderberry longhorn beetle  
 obscure bumble bee Crotch bumble bee moestan blister beetle western ridged mussel Townsend's big-eared bat  
 valley elderberry longhorn beetle steelhead - Central Valley DPS hardhead Swainson's hawk  
 song sparrow ("Modesto" population) prairie wedge grass  
 Project Site  
 cackling (=Aleutian Canada) goose BRUSH LAKE  
 tricolored blackbird tricolored blackbird  
 Swainson's hawk Swainson's hawk cackling (=Aleutian Canada) goose snowy egret tricolored blackbird  
 tricolored blackbird Swainson's hawk  
 tricolored blackbird Swainson's hawk  
 Swainson's hawk steelhead - Central Valley DPS tricolored blackbird hoary bat  
 Swainson's hawk alkali-sink goldfields vernal pool smallscale California alkali grass  
 Crotch bumble bee tricolored blackbird cackling (=Aleutian Canada) goose western pond turtle  
 prairie falcon Swainson's hawk Delta button-celery lesser saltscaler tricolored blackbird heartscale Swainson's hawk  
 Sacramento splittail alkali-sink goldfields Swainson's hawk  
 Swainson's hawk

**CNDDDB**

**Fairview Village**

**City of Modesto, Stanislaus County, CA**

Map Date: 01/29/2021; Source: CDFW



# IPaC resource list

This report is an automatically generated list of species and other resources such as critical habitat (collectively referred to as *trust resources*) under the U.S. Fish and Wildlife Service's (USFWS) jurisdiction that are known or expected to be on or near the project area referenced below. The list may also include trust resources that occur outside of the project area, but that could potentially be directly or indirectly affected by activities in the project area. However, determining the likelihood and extent of effects a project may have on trust resources typically requires gathering additional site-specific (e.g., vegetation/species surveys) and project-specific (e.g., magnitude and timing of proposed activities) information.

Below is a summary of the project information you provided and contact information for the USFWS office(s) with jurisdiction in the defined project area. Please read the introduction to each section that follows (Endangered Species, Migratory Birds, USFWS Facilities, and NWI Wetlands) for additional information applicable to the trust resources addressed in that section.

## Location

Stanislaus County, California



## Local office

Sacramento Fish And Wildlife Office

☎ (916) 414-6600

📅 (916) 414-6713

Federal Building  
2800 Cottage Way, Room W-2605  
Sacramento, CA 95825-1846

# Endangered species

**This resource list is for informational purposes only and does not constitute an analysis of project level impacts.**

The primary information used to generate this list is the known or expected range of each species. Additional areas of influence (AOI) for species are also considered. An AOI includes areas outside of the species range if the species could be indirectly affected by activities in that area (e.g., placing a dam upstream of a fish population even if that fish does not occur at the dam site, may indirectly impact the species by reducing or eliminating water flow downstream). Because species can move, and site conditions can change, the species on this list are not guaranteed to be found on or near the project area. To fully determine any potential effects to species, additional site-specific and project-specific information is often required.

Section 7 of the Endangered Species Act **requires** Federal agencies to "request of the Secretary information whether any species which is listed or proposed to be listed may be present in the area of such proposed action" for any project that is conducted, permitted, funded, or licensed by any Federal agency. A letter from the local office and a species list which fulfills this requirement can **only** be obtained by requesting an official species list from either the Regulatory Review section in IPaC (see directions below) or from the local field office directly.

For project evaluations that require USFWS concurrence/review, please return to the IPaC website and request an official species list by doing the following:

1. Draw the project location and click CONTINUE.
2. Click DEFINE PROJECT.
3. Log in (if directed to do so).
4. Provide a name and description for your project.
5. Click REQUEST SPECIES LIST.

Listed species<sup>1</sup> and their critical habitats are managed by the [Ecological Services Program](#) of the U.S. Fish and Wildlife Service (USFWS) and the fisheries division of the National Oceanic and Atmospheric Administration (NOAA Fisheries<sup>2</sup>).

Species and critical habitats under the sole responsibility of NOAA Fisheries are **not** shown on this list. Please contact [NOAA Fisheries](#) for [species under their jurisdiction](#).

1. Species listed under the [Endangered Species Act](#) are threatened or endangered; IPaC also shows species that are candidates, or proposed, for listing. See the [listing status page](#) for more information. IPaC only shows species that are regulated by USFWS (see FAQ).
2. [NOAA Fisheries](#), also known as the National Marine Fisheries Service (NMFS), is an office of the National Oceanic and Atmospheric Administration within the Department of Commerce.

The following species are potentially affected by activities in this location:

## Reptiles

NAME

STATUS

<b>Giant Garter Snake</b> <i>Thamnophis gigas</i>	<b>Threatened</b>
Wherever found	
No critical habitat has been designated for this species.	
<a href="https://ecos.fws.gov/ecp/species/4482">https://ecos.fws.gov/ecp/species/4482</a>	

## Amphibians

NAME	STATUS
<b>California Red-legged Frog</b> <i>Rana draytonii</i>	<b>Threatened</b>
Wherever found	
There is <b>final</b> critical habitat for this species. The location of the critical habitat is not available.	
<a href="https://ecos.fws.gov/ecp/species/2891">https://ecos.fws.gov/ecp/species/2891</a>	
<b>California Tiger Salamander</b> <i>Ambystoma californiense</i>	<b>Threatened</b>
There is <b>final</b> critical habitat for this species. The location of the critical habitat is not available.	
<a href="https://ecos.fws.gov/ecp/species/2076">https://ecos.fws.gov/ecp/species/2076</a>	

## Fishes

NAME	STATUS
<b>Delta Smelt</b> <i>Hypomesus transpacificus</i>	<b>Threatened</b>
Wherever found	
There is <b>final</b> critical habitat for this species. The location of the critical habitat is not available.	
<a href="https://ecos.fws.gov/ecp/species/321">https://ecos.fws.gov/ecp/species/321</a>	

## Insects

NAME	STATUS
<b>Valley Elderberry Longhorn Beetle</b> <i>Desmocerus californicus dimorphus</i>	<b>Threatened</b>
Wherever found	
There is <b>final</b> critical habitat for this species. The location of the critical habitat is not available.	
<a href="https://ecos.fws.gov/ecp/species/7850">https://ecos.fws.gov/ecp/species/7850</a>	

## Crustaceans

NAME	STATUS
<b>Vernal Pool Fairy Shrimp</b> <i>Branchinecta lynchi</i>	<b>Threatened</b>
Wherever found	
There is <b>final</b> critical habitat for this species. The location of the critical habitat is not available.	
<a href="https://ecos.fws.gov/ecp/species/498">https://ecos.fws.gov/ecp/species/498</a>	

## Vernal Pool Tadpole Shrimp *Lepidurus packardii*

Endangered

Wherever found

There is **final** critical habitat for this species. The location of the critical habitat is not available.

<https://ecos.fws.gov/ecp/species/2246>

## Critical habitats

Potential effects to critical habitat(s) in this location must be analyzed along with the endangered species themselves.

THERE ARE NO CRITICAL HABITATS AT THIS LOCATION.

## Migratory birds

Certain birds are protected under the Migratory Bird Treaty Act<sup>1</sup> and the Bald and Golden Eagle Protection Act<sup>2</sup>.

Any person or organization who plans or conducts activities that may result in impacts to migratory birds, eagles, and their habitats should follow appropriate regulations and consider implementing appropriate conservation measures, as described [below](#).

1. The [Migratory Birds Treaty Act](#) of 1918.
2. The [Bald and Golden Eagle Protection Act](#) of 1940.

Additional information can be found using the following links:

- Birds of Conservation Concern <http://www.fws.gov/birds/management/managed-species/birds-of-conservation-concern.php>
- Measures for avoiding and minimizing impacts to birds <http://www.fws.gov/birds/management/project-assessment-tools-and-guidance/conservation-measures.php>
- Nationwide conservation measures for birds <http://www.fws.gov/migratorybirds/pdf/management/nationwidestandardconservationmeasures.pdf>

The birds listed below are birds of particular concern either because they occur on the [USFWS Birds of Conservation Concern](#) (BCC) list or warrant special attention in your project location. To learn more about the levels of concern for birds on your list and how this list is generated, see the FAQ [below](#). This is not a list of every bird you may find in this location, nor a guarantee that every bird on this list will be found in your project area. To see exact locations of where birders and the general public have sighted birds in and around your project area, visit the [E-bird data mapping tool](#) (Tip: enter your location, desired date range and a species on your list). For projects that occur off the Atlantic Coast, additional maps and models detailing the relative occurrence and abundance of bird species on your

list are available. Links to additional information about Atlantic Coast birds, and other important information about your migratory bird list, including how to properly interpret and use your migratory bird report, can be found [below](#).

For guidance on when to schedule activities or implement avoidance and minimization measures to reduce impacts to migratory birds on your list, click on the PROBABILITY OF PRESENCE SUMMARY at the top of your list to see when these birds are most likely to be present and breeding in your project area.

NAME

BREEDING SEASON (IF A BREEDING SEASON IS INDICATED FOR A BIRD ON YOUR LIST, THE BIRD MAY BREED IN YOUR PROJECT AREA SOMETIME WITHIN THE TIMEFRAME SPECIFIED, WHICH IS A VERY LIBERAL ESTIMATE OF THE DATES INSIDE WHICH THE BIRD BREEDS ACROSS ITS ENTIRE RANGE. "BREEDS ELSEWHERE" INDICATES THAT THE BIRD DOES NOT LIKELY BREED IN YOUR PROJECT AREA.)

#### Bald Eagle *Haliaeetus leucocephalus*

This is not a Bird of Conservation Concern (BCC) in this area, but warrants attention because of the Eagle Act or for potential susceptibilities in offshore areas from certain types of development or activities.

<https://ecos.fws.gov/ecp/species/1626>

Breeds Jan 1 to Aug 31

#### Lawrence's Goldfinch *Carduelis lawrencei*

This is a Bird of Conservation Concern (BCC) throughout its range in the continental USA and Alaska.

<https://ecos.fws.gov/ecp/species/9464>

Breeds Mar 20 to Sep 20

#### Nuttall's Woodpecker *Picoides nuttallii*

This is a Bird of Conservation Concern (BCC) only in particular Bird Conservation Regions (BCRs) in the continental USA

<https://ecos.fws.gov/ecp/species/9410>

Breeds Apr 1 to Jul 20

#### Oak Titmouse *Baeolophus inornatus*

This is a Bird of Conservation Concern (BCC) throughout its range in the continental USA and Alaska.

<https://ecos.fws.gov/ecp/species/9656>

Breeds Mar 15 to Jul 15

#### Rufous Hummingbird *selasphorus rufus*

This is a Bird of Conservation Concern (BCC) throughout its range in the continental USA and Alaska.

<https://ecos.fws.gov/ecp/species/8002>

Breeds elsewhere

<p><b>Short-billed Dowitcher</b> <i>Limnodromus griseus</i>  This is a Bird of Conservation Concern (BCC) throughout its range in the continental USA and Alaska.  <a href="https://ecos.fws.gov/ecp/species/9480">https://ecos.fws.gov/ecp/species/9480</a></p>	Breeds elsewhere
<p><b>Song Sparrow</b> <i>Melospiza melodia</i>  This is a Bird of Conservation Concern (BCC) only in particular Bird Conservation Regions (BCRs) in the continental USA</p>	Breeds Feb 20 to Sep 5
<p><b>Spotted Towhee</b> <i>Pipilo maculatus clementae</i>  This is a Bird of Conservation Concern (BCC) only in particular Bird Conservation Regions (BCRs) in the continental USA  <a href="https://ecos.fws.gov/ecp/species/4243">https://ecos.fws.gov/ecp/species/4243</a></p>	Breeds Apr 15 to Jul 20
<p><b>Whimbrel</b> <i>Numenius phaeopus</i>  This is a Bird of Conservation Concern (BCC) throughout its range in the continental USA and Alaska.  <a href="https://ecos.fws.gov/ecp/species/9483">https://ecos.fws.gov/ecp/species/9483</a></p>	Breeds elsewhere
<p><b>Willet</b> <i>Tringa semipalmata</i>  This is a Bird of Conservation Concern (BCC) throughout its range in the continental USA and Alaska.</p>	Breeds elsewhere
<p><b>Wrentit</b> <i>Chamaea fasciata</i>  This is a Bird of Conservation Concern (BCC) throughout its range in the continental USA and Alaska.</p>	Breeds Mar 15 to Aug 10
<p><b>Yellow-billed Magpie</b> <i>Pica nuttalli</i>  This is a Bird of Conservation Concern (BCC) throughout its range in the continental USA and Alaska.  <a href="https://ecos.fws.gov/ecp/species/9726">https://ecos.fws.gov/ecp/species/9726</a></p>	Breeds Apr 1 to Jul 31

## Probability of Presence Summary

The graphs below provide our best understanding of when birds of concern are most likely to be present in your project area. This information can be used to tailor and schedule your project activities to avoid or minimize impacts to birds. Please make sure you read and understand the FAQ "Proper Interpretation and Use of Your Migratory Bird Report" before using or attempting to interpret this report.

### Probability of Presence (■)

Each green bar represents the bird's relative probability of presence in the 10km grid cell(s) your project overlaps during a particular week of the year. (A year is represented as 12 4-week months.) A taller bar indicates a higher probability of species presence. The survey effort (see below) can be used to establish a level of confidence in the presence score. One can have higher confidence in the presence score if the corresponding survey effort is also high.

How is the probability of presence score calculated? The calculation is done in three steps:

1. The probability of presence for each week is calculated as the number of survey events in the week where the species was detected divided by the total number of survey events for that week. For example, if in week 12 there were 20 survey events and the Spotted Towhee was found in 5 of them, the probability of presence of the Spotted Towhee in week 12 is 0.25.
2. To properly present the pattern of presence across the year, the relative probability of presence is calculated. This is the probability of presence divided by the maximum probability of presence across all weeks. For example, imagine the probability of presence in week 20 for the Spotted Towhee is 0.05, and that the probability of presence at week 12 (0.25) is the maximum of any week of the year. The relative probability of presence on week 12 is  $0.25/0.25 = 1$ ; at week 20 it is  $0.05/0.25 = 0.2$ .
3. The relative probability of presence calculated in the previous step undergoes a statistical conversion so that all possible values fall between 0 and 10, inclusive. This is the probability of presence score.

To see a bar's probability of presence score, simply hover your mouse cursor over the bar.

### Breeding Season (■)

Yellow bars denote a very liberal estimate of the time-frame inside which the bird breeds across its entire range. If there are no yellow bars shown for a bird, it does not breed in your project area.

### Survey Effort (|)

Vertical black lines superimposed on probability of presence bars indicate the number of surveys performed for that species in the 10km grid cell(s) your project area overlaps. The number of surveys is expressed as a range, for example, 33 to 64 surveys.

To see a bar's survey effort range, simply hover your mouse cursor over the bar.

### No Data (—)

A week is marked as having no data if there were no survey events for that week.

### Survey Timeframe

Surveys from only the last 10 years are used in order to ensure delivery of currently relevant information. The exception to this is areas off the Atlantic coast, where bird returns are based on all years of available data, since data in these areas is currently much more sparse.

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**Tell me more about conservation measures I can implement to avoid or minimize impacts to migratory birds.**

[Nationwide Conservation Measures](#) describes measures that can help avoid and minimize impacts to all birds at any location year round. Implementation of these measures is particularly important when birds are most likely to occur in the project area. When birds may be breeding in the area, identifying the locations of any active nests and avoiding their destruction is a very helpful impact minimization measure. To see when birds are most likely to occur and be breeding in your project area, view the Probability of Presence Summary. [Additional measures](#) or [permits](#) may be advisable depending on the type of activity you are conducting and the type of infrastructure or bird species present on your project site.

**What does IPaC use to generate the migratory birds potentially occurring in my specified location?**

The Migratory Bird Resource List is comprised of USFWS [Birds of Conservation Concern \(BCC\)](#) and other species that may warrant special attention in your project location.

The migratory bird list generated for your project is derived from data provided by the [Avian Knowledge Network \(AKN\)](#). The AKN data is based on a growing collection of [survey, banding, and citizen science datasets](#) and is queried and filtered to return a list of those birds reported as occurring in the 10km grid cell(s) which your project intersects, and that have been identified as warranting special attention because they are a BCC species in that area, an eagle ([Eagle Act](#) requirements may apply), or a species that has a particular vulnerability to offshore activities or development.

Again, the Migratory Bird Resource list includes only a subset of birds that may occur in your project area. It is not representative of all birds that may occur in your project area. To get a list of all birds potentially present in your project area, please visit the [AKN Phenology Tool](#).

### **What does IPaC use to generate the probability of presence graphs for the migratory birds potentially occurring in my specified location?**

The probability of presence graphs associated with your migratory bird list are based on data provided by the [Avian Knowledge Network \(AKN\)](#). This data is derived from a growing collection of [survey, banding, and citizen science datasets](#).

Probability of presence data is continuously being updated as new and better information becomes available. To learn more about how the probability of presence graphs are produced and how to interpret them, go to the Probability of Presence Summary and then click on the "Tell me about these graphs" link.

### **How do I know if a bird is breeding, wintering, migrating or present year-round in my project area?**

To see what part of a particular bird's range your project area falls within (i.e. breeding, wintering, migrating or year-round), you may refer to the following resources: [The Cornell Lab of Ornithology All About Birds Bird Guide](#), or (if you are unsuccessful in locating the bird of interest there), the [Cornell Lab of Ornithology Neotropical Birds guide](#). If a bird on your migratory bird species list has a breeding season associated with it, if that bird does occur in your project area, there may be nests present at some point within the timeframe specified. If "Breeds elsewhere" is indicated, then the bird likely does not breed in your project area.

### **What are the levels of concern for migratory birds?**

Migratory birds delivered through IPaC fall into the following distinct categories of concern:

1. "BCC Rangewide" birds are [Birds of Conservation Concern](#) (BCC) that are of concern throughout their range anywhere within the USA (including Hawaii, the Pacific Islands, Puerto Rico, and the Virgin Islands);
2. "BCC - BCR" birds are BCCs that are of concern only in particular Bird Conservation Regions (BCRs) in the continental USA; and
3. "Non-BCC - Vulnerable" birds are not BCC species in your project area, but appear on your list either because of the [Eagle Act](#) requirements (for eagles) or (for non-eagles) potential susceptibilities in offshore areas from certain types of development or activities (e.g. offshore energy development or longline fishing).

Although it is important to try to avoid and minimize impacts to all birds, efforts should be made, in particular, to avoid and minimize impacts to the birds on this list, especially eagles and BCC species of rangewide concern. For more information on conservation measures you can implement to help avoid and minimize migratory bird impacts and requirements for eagles, please see the FAQs for these topics.

### **Details about birds that are potentially affected by offshore projects**

For additional details about the relative occurrence and abundance of both individual bird species and groups of bird species within your project area off the Atlantic Coast, please visit the [Northeast Ocean Data Portal](#). The Portal also offers data and information about other taxa besides birds that may be helpful to you in your project review.

Alternately, you may download the bird model results files underlying the portal maps through the [NOAA NCCOS Integrative Statistical Modeling and Predictive Mapping of Marine Bird Distributions and Abundance on the Atlantic Outer Continental Shelf](#) project webpage.

Bird tracking data can also provide additional details about occurrence and habitat use throughout the year, including migration. Models relying on survey data may not include this information. For additional information on marine bird tracking data, see the [Diving Bird Study](#) and the [nanotag studies](#) or contact [Caleb Spiegel](#) or [Pam Loring](#).

### What if I have eagles on my list?

If your project has the potential to disturb or kill eagles, you may need to [obtain a permit](#) to avoid violating the Eagle Act should such impacts occur.

### Proper Interpretation and Use of Your Migratory Bird Report

The migratory bird list generated is not a list of all birds in your project area, only a subset of birds of priority concern. To learn more about how your list is generated, and see options for identifying what other birds may be in your project area, please see the FAQ "What does IPaC use to generate the migratory birds potentially occurring in my specified location". Please be aware this report provides the "probability of presence" of birds within the 10 km grid cell(s) that overlap your project; not your exact project footprint. On the graphs provided, please also look carefully at the survey effort (indicated by the black vertical bar) and for the existence of the "no data" indicator (a red horizontal bar). A high survey effort is the key component. If the survey effort is high, then the probability of presence score can be viewed as more dependable. In contrast, a low survey effort bar or no data bar means a lack of data and, therefore, a lack of certainty about presence of the species. This list is not perfect; it is simply a starting point for identifying what birds of concern have the potential to be in your project area, when they might be there, and if they might be breeding (which means nests might be present). The list helps you know what to look for to confirm presence, and helps guide you in knowing when to implement conservation measures to avoid or minimize potential impacts from your project activities, should presence be confirmed. To learn more about conservation measures, visit the FAQ "Tell me about conservation measures I can implement to avoid or minimize impacts to migratory birds" at the bottom of your migratory bird trust resources page.

## Facilities

### National Wildlife Refuge lands

Any activity proposed on lands managed by the [National Wildlife Refuge](#) system must undergo a 'Compatibility Determination' conducted by the Refuge. Please contact the individual Refuges to discuss any questions or concerns.

THERE ARE NO REFUGE LANDS AT THIS LOCATION.

### Fish hatcheries

THERE ARE NO FISH HATCHERIES AT THIS LOCATION.

## Wetlands in the National Wetlands Inventory

Impacts to [NWI wetlands](#) and other aquatic habitats may be subject to regulation under Section 404 of the Clean Water Act, or other State/Federal statutes.

For more information please contact the Regulatory Program of the local [U.S. Army Corps of Engineers District](#).

Please note that the NWI data being shown may be out of date. We are currently working to update our NWI data set. We recommend you verify these results with a site visit to determine the actual extent of wetlands on site.

This location overlaps the following wetlands:

FRESHWATER FORESTED/SHRUB WETLAND

[PFOA](#)

FRESHWATER POND

[PUBK](#)

RIVERINE

[R2UBH](#)

A full description for each wetland code can be found at the [National Wetlands Inventory website](#)

#### Data limitations

The Service's objective of mapping wetlands and deepwater habitats is to produce reconnaissance level information on the location, type and size of these resources. The maps are prepared from the analysis of high altitude imagery. Wetlands are identified based on vegetation, visible hydrology and geography. A margin of error is inherent in the use of imagery; thus, detailed on-the-ground inspection of any particular site may result in revision of the wetland boundaries or classification established through image analysis.

The accuracy of image interpretation depends on the quality of the imagery, the experience of the image analysts, the amount and quality of the collateral data and the amount of ground truth verification work conducted. Metadata should be consulted to determine the date of the source imagery used and any mapping problems.

Wetlands or other mapped features may have changed since the date of the imagery or field work. There may be occasional differences in polygon boundaries or classifications between the information depicted on the map and the actual conditions on site.

#### Data exclusions

Certain wetland habitats are excluded from the National mapping program because of the limitations of aerial imagery as the primary data source used to detect wetlands. These habitats include seagrasses or submerged aquatic vegetation that are found in the intertidal and subtidal zones of estuaries and nearshore coastal waters. Some deepwater reef communities (coral or tubercid worm reefs) have also been excluded from the inventory. These habitats, because of their depth, go undetected by aerial imagery.

#### Data precautions

Federal, state, and local regulatory agencies with jurisdiction over wetlands may define and describe wetlands in a different manner than that used in this inventory. There is no attempt, in either the design or products of this inventory, to define the limits of proprietary jurisdiction of any Federal, state, or local government or to establish the geographical scope of the regulatory programs of government agencies. Persons intending to engage in activities involving modifications within or adjacent to wetland areas should seek the advice of appropriate federal, state, or

local agencies concerning specified agency regulatory programs and proprietary jurisdictions that may affect such activities.

NOT FOR CONSULTATION

Attachment C

Photographs



Farm road in the south part of the site, looking west from the southeast part of the site; 02/03/21.



Row of almond trees in the body of the site, looking south from the north part of the site; 02/03/21. The orchard does not provide suitable foraging habitat for Swainson's hawks.



Southeast part of the site where Saint Salazar Circle will be extended further southwest and incorporated into the new subdivision, looking southwest; 02/03/21.



South edge of the site, looking east from the southwest corner of the site; 02/03/21.



East edge of the site, looking north from the southeast part of the site; 02/03/21.



East edge of the site, looking south along Monticello Lane from the northeast corner of the site.



West edge of the site, looking north along Carpenter Road from the southwest corner of the site; 02/03/21.



North edge of the site, looking east from the northwest corner of the site; 02/03/21.



Residence and a few small structures in the southwest part of the site, looking northwest; 02/03/21.

Attachment D

National Wetland Inventory Map







January 25, 2021

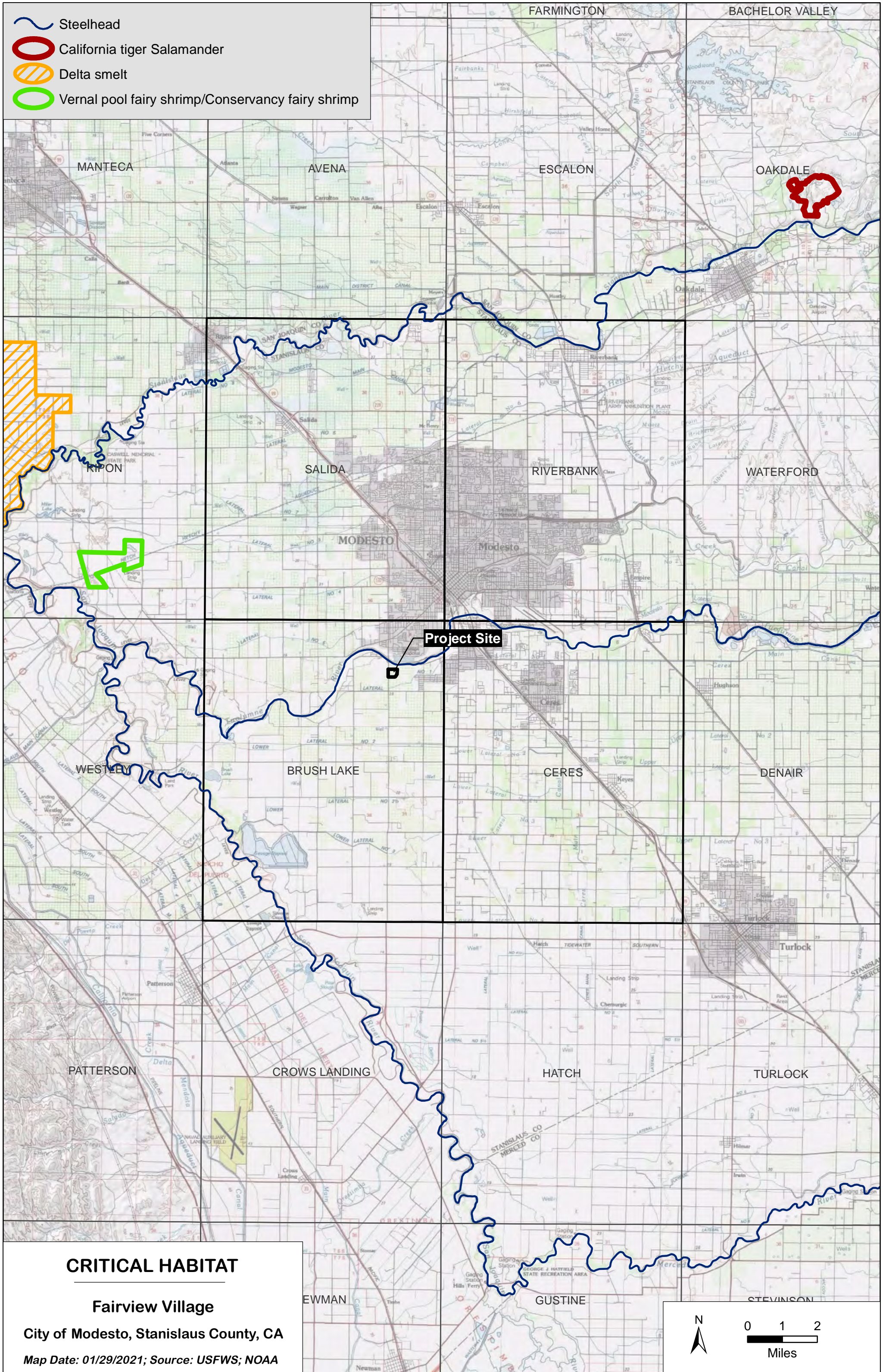
### Wetlands

- |                                |                                   |          |
|--------------------------------|-----------------------------------|----------|
| Estuarine and Marine Deepwater | Freshwater Emergent Wetland       | Lake     |
| Estuarine and Marine Wetland   | Freshwater Forested/Shrub Wetland | Other    |
|                                | Freshwater Pond                   | Riverine |

This map is for general reference only. The US Fish and Wildlife Service is not responsible for the accuracy or currentness of the base data shown on this map. All wetlands related data should be used in accordance with the layer metadata found on the Wetlands Mapper web site.

Attachment E  
Designated Critical Habitat

-  Steelhead
-  California tiger Salamander
-  Delta smelt
-  Vernal pool fairy shrimp/Conservancy fairy shrimp

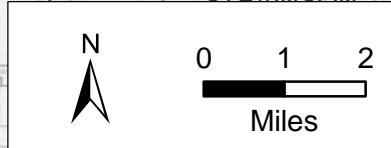


**CRITICAL HABITAT**

**Fairview Village**

City of Modesto, Stanislaus County, CA

Map Date: 01/29/2021; Source: USFWS; NOAA



**MODESTO CITY COUNCIL  
RESOLUTION NO. 2022-104**

**RESOLUTION APPROVING REVISED ALLOCATIONS IN THE SPENDING PLAN FOR THE CITY'S PANDEMIC RECOVERY STRATEGY, MODESTO FORWARD, FOR THE USE OF AMERICAN RESCUE PLAN FUNDS AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO CARRY OUT THE NECESSARY STEPS TO IMPLEMENT THE PROGRAMS AND FUNDING ALLOCATIONS**

WHEREAS, Since the adoption of the local health emergency, the City has implemented a variety of measures and programs to help slow the spread of COVID-19 and mitigate the associated impact of the pandemic, and

WHEREAS, the response has included safe transit opportunities available at no cost, open-air program for restaurants, business enforcement and monitoring programs, small business grants, adjustments/closures to city facilities, in-door shelter for at-risk homeless individuals, and telecommuting opportunities for employees, and

WHEREAS, the City also has directly supported the County with making testing centers and a vaccine clinic available that are directly managed and supported by City personnel, and

WHEREAS, the applied interventions and mitigation strategies along with the City's coordination with local, state and federal partners have been an essential component of the City's successful response, and

WHEREAS, In April 2021, President Biden signed into law the American Rescue Plan Act a \$1.9 trillion emergency relief measure intended to provide relief to address the impact of COVID-19, and

WHEREAS, Key allocations from the American Rescue Plan that have been made available directly from the federal government for the community including direct support for businesses, homeowners, renters, and restaurant/bar owners, and

WHEREAS, this legislation is also making a historic investment into local governments that includes \$45,897,056 available to the City of Modesto to help address the local impact of COVID-19, and

WHEREAS, the \$45.89 million is being made available by the U.S Treasury directly to the City in two tranches: 50 percent was made available in May 2021, and the remaining 50 percent is expected to be provided in May 2022, and

WHEREAS, the deadline to obligate funds is December 31, 2024 and the deadline to expend the funds is December 31, 2026, and

WHEREAS, The Treasury Department has periodically released guidance on the eligibility of funds, and released their Final Rule for the use of ARPA funds in January 2022, and

WHEREAS, to arrive at the original expenditure plan, staff solicited priorities from the public and the Council at the three standing City Council Committees: Economic Development, Safety and Communities, and Finance, and

WHEREAS, With the themes that were identified at the various committees, staff consolidated them and reviewed whether they are eligible expenses based on the guidance that had been made available by the Treasury Department, and

WHEREAS, the approved strategy was titled Modesto Forward – to highlight the resilience of the community, and

WHEREAS, The Modesto Forward strategy was approved by Resolution 2021-194 on May 25, 2021 and it included various allocations of funding, and

WHEREAS, the strategy included some general and specific allocations; for those specific allocations, staff was required to prepare agreements; and, for those general allocations, staff was required to prepare detailed work plans, and

WHEREAS, furthermore, since the approval of the strategy, staff has been able to work closely with nonprofits and community partners that were approved for funding to develop Funding Contribution Agreements, and

WHEREAS, the City is now finalizing the negotiation of the agreements with the Awesome Spot Playground, Graffiti Museum, Children’s Museum, Modesto Neighborhoods Inc., and Modesto Convention and Visitors Bureau, and

WHEREAS, upon approval of this item, the City intends to finalize and execute the agreements based on the amount that was originally approved by Council below, and

<b>Organization</b>	<b>Funding Amount</b>
Awesome Spot Playground	\$500,000
Graffiti Museum (Valley Mountain Regional Center)	\$500,000
Children’s Museum	\$500,000
Convention and Visitors Bureau	\$250,000
Modesto Neighborhoods Inc.	\$120,000
<b>TOTAL</b>	<b>\$1,870,000</b>

WHEREAS, since the approval of the original spending plan, organizations have continued to reach out to the City requesting financial relief from the pandemic. The proposed programs include requests from the community and also include internal programs that have been approved for funding by the City, and

WHEREAS, these proposed allocations have been included within general allocations of COVID-19 labor expenses, homeless support, and small business support and thus reducing the original amount that was allocated to these 3 categories, and

WHEREAS, Council approval of this item would adjust three general categories of expenditures: COVID-19 labor, homeless support, and small business support in the amount of \$730,000, and

WHEREAS, approval of this item will also release funds to several community partners, nonprofits, and programs as approved in the spending plan in the amount of \$2,480,000, and

WHEREAS, each of the items for consideration are highlighted in green at the table appended to this resolution, and

WHEREAS, each of these expenditures vary in their scope and staff will continue to periodically return to Council for consideration of the items that require the creation of a new program, the development of a public-private partnership, or the approval of an agreement, and

WHEREAS, the proposed expenditures are only revisions to the Year 1 spending plan and the spending plan for the Year 2 allocation will be developed in the coming months and will be included in the FY 2022-2023 budget, and

WHEREAS, this item was previously considered by the Finance Committee on August 23, 2021 and was approved to be forwarded to Council for consideration, and

WHEREAS, the Park Ranger Program was recently approved by the Council on January 25, 2022, and the modification to the spending plan is being documented in this item.

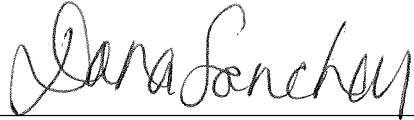
NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approving revised allocations in the spending plan for the city's pandemic recovery strategy, Modesto Forward, for the use of American Rescue Plan funds and authorizing the City Manager, or his designee, to carry out the necessary steps to implement the programs and funding allocations.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 8th day of February, 2022, by Councilmember Ricci, who moved its adoption, which motion being duly seconded by Councilmember Madrigal, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Escutia-Braaton, Kenoyer, Madrigal, Ricci, Wright, Zoslocki, Mayor Zwahlen

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST:   
DANA SANCHEZ, Interim City Clerk

(SEAL)

APPROVED AS TO FORM:

BY:   
JOSE M. SANCHEZ, City Attorney

Program	Program Status	Original Allocation	Proposed Allocation	Remaining Funding
<b>Quality of Life</b>				
<b>COVID-19 labor expenses</b>		<b>\$4,750,000</b>		<b>\$4,630,000</b>
<i>Employee Recognition Project</i>	<i>Pending approval from Council on February 8th</i>		\$20,000	-
<i>Innovation Lab</i>	<i>Pending approval from Council on February 8th</i>		\$100,000	-
<b>Homeless Support Program</b>		<b>\$1,000,000</b>		<b>\$276,000</b>
<i>Park Rangers</i>	<i>Approved by Council January 24, 2022</i>		\$624,000	-
<i>Stanislaus Equity Partners</i>	<i>Pending approval from Council on February 8th</i>		\$100,000	-
Mental Health Clinician Program – Partnership with BHRS	This program is still in the research/development phase	\$800,000		\$800,000
Blight Abatement*	This program is still in the research/development phase	\$750,000		\$750,000
Downtown Beautification	This program is still in the research/development phase	\$700,000		\$700,000
Emergency Medical Service equipment	Expended – MFD purchase of EMS equipment	\$600,000		-
Grants to neighborhoods (Modesto Neighborhoods Inc.)	Pending approval from Council on February 8th	\$120,000	\$120,000	-
<b>Economic Vitality</b>				
<b>Small biz support with expansion and retention</b>		<b>\$1,000,000</b>		<b>\$610,000</b>
<i>Stanislaus 2030 Initiative</i>	<i>Pending approval from Council on February 8th</i>		\$90,000	-
<i>Economic Development Support</i>	<i>Pending approval from Council on February 8th</i>		\$100,000	-
<i>Support for the Arts</i>	<i>Pending approval from Council on February 8th</i>		\$200,000	-
Revolving loan fund for attraction of downtown development	This program is still in the research/development phase	\$1,000,000		\$1,000,000
Revolving loan fund for water/sewer connection fees	This program is still in the research/development phase	\$1,000,000		\$1,000,000
Tuolumne River – Economic Development	This program is still in the research/development phase	\$750,000		\$750,000
Relief Across Downtown Card	Expended – Agreement with Downtown Modesto Partnership	\$708,500		-
Implementation/support of a workforce development program	This program is still in the research/development phase	\$500,000		\$500,000
Support for Children’s Museum	Pending approval from Council on February 8th	\$500,000	\$500,000	-
Support for Awesome Spot Playground (Valley Mountain Regional Center)	Pending approval from Council on February 8th	\$500,000	\$500,000	-
Support for Car Museum	Pending approval from Council on February 8th	\$500,000	\$500,000	-
Support for Convention and Visitor’s Bureau*	Pending approval from Council on February 8th	\$250,000	\$250,000	-
Expanded Wi-Fi downtown and available at community facilities	This program is still in the research/development phase	\$200,000		\$200,000
Enhanced Infrastructure Financing District	This program is still in the research/development phase	\$200,000		\$200,000
<b>Governance and Service Delivery</b>				
Fire Station 1 Deferred Maintenance	This program is still in the research/development phase	\$2,000,000		\$2,000,000
Forestry Program Enhancements*	Expended – Public Works agreement with Grover Landscaping	\$1,850,000		-
General Plan Update	Expended – General Plan update expenditures	\$700,000		-
Discoverer Replacement	This program is still in the research/development phase	\$500,000		\$500,000
Cybersecurity Mitigation	This program is still in the research/development phase	\$490,000		\$490,000
TSP Battery Back Up System Upgrade	This program is still in the research/development phase	\$250,000		\$250,000
Address deferred maintenance at various parks and public facilities	This program is still in the research/development phase	\$1,270,028		\$1,270,028
Upgrade software for Utility billing	This program is still in the research/development phase	\$60,000		\$60,000
<b>TOTAL</b>		<b>\$22,948,528</b>	<b>\$3,104,000</b>	<b>\$15,986,028</b>

Items highlighted in green show proposed expenditures for consideration by the Council.

\*Items marked with an asterisk (\*) are two-year allocations

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2022-105**

**RESOLUTION AUTHORIZING THE CITY MANAGER TO NEGOTIATE AND EXECUTE AGREEMENTS WITH THE CHILDREN'S MUSEUM, AWESOME SPOT PLAYGROUND (VALLEY MOUNTAIN REGIONAL CENTER), AND GRAFFITI MUSEUM FOR \$500,000 EACH, CONVENTION AND VISITOR'S BUREAU FOR \$250,000, MODESTO NEIGHBORHOODS INC. FOR \$120,000, STANISLAUS EQUITY PARTNERS AND OPPORTUNITY STANISLAUS FOR \$100,000 EACH, STANISLAUS COMMUNITY FOUNDATION FOR \$90,000, AND MODESTO ART MUSEUM, OPERA THEATER, PROSPECT THEATER, AND STATE THEATER FOR \$50,000 EACH**

WHEREAS, Since the adoption of the local health emergency, the City has implemented a variety of measures and programs to help slow the spread of COVID-19 and mitigate the associated impact of the pandemic, and

WHEREAS, the response has included safe transit opportunities available at no cost, open-air program for restaurants, business enforcement and monitoring programs, small business grants, adjustments/closures to city facilities, in-door shelter for at-risk homeless individuals, and telecommuting opportunities for employees, and

WHEREAS, the City also has directly supported the County with making testing centers and a vaccine clinic available that are directly managed and supported by City personnel, and

WHEREAS, the applied interventions and mitigation strategies along with the City's coordination with local, state and federal partners have been an essential component of the City's successful response, and

WHEREAS, In April 2021, President Biden signed into law the American Rescue Plan Act a \$1.9 trillion emergency relief measure intended to provide relief to address the impact of COVID-19, and

WHEREAS, Key allocations from the American Rescue Plan that have been made available directly from the federal government for the community including direct support for businesses, homeowners, renters, and restaurant/bar owners, and

WHEREAS, this legislation is also making a historic investment into local governments that includes \$45,897,056 available to the City of Modesto to help address the local impact of COVID-19, and

WHEREAS, the \$45.89 million is being made available by the U.S Treasury directly to the City in two tranches: 50 percent was made available in May 2021, and the remaining 50 percent is expected to be provided in May 2022, and

WHEREAS, the deadline to obligate funds is December 31, 2024 and the deadline to expend the funds is December 31, 2026, and

WHEREAS, The Treasury Department has periodically released guidance on the eligibility of funds, and released their Final Rule for the use of ARPA funds in January 2022, and

WHEREAS, to arrive at the original expenditure plan, staff solicited priorities from the public and the Council at the three standing City Council Committees: Economic Development, Safety and Communities, and Finance, and

WHEREAS, With the themes that were identified at the various committees, staff consolidated them and reviewed whether they are eligible expenses based on the guidance that had been made available by the Treasury Department, and

WHEREAS, the approved strategy was titled Modesto Forward – to highlight the resilience of the community, and

WHEREAS, The Modesto Forward strategy was approved by Resolution 2021-194 on May 25, 2021 and it included various allocations of funding, and

WHEREAS, the strategy included some general and specific allocations; for those specific allocations, staff was required to prepare agreements; and, for those general allocations, staff was required to prepare detailed work plans, and

WHEREAS, furthermore, since the approval of the strategy, staff has been able to work closely with nonprofits and community partners that were approved for funding to develop Funding Contribution Agreements, and

WHEREAS, the City is now finalizing the negotiation of the agreements with the Awesome Spot Playground, Graffiti Museum, Children’s Museum, Modesto Neighborhoods Inc., and Modesto Convention and Visitors Bureau, and

WHEREAS, upon approval of this item, the City intends to finalize and execute the agreements based on the amount that was originally approved by Council below, and

<b>Organization</b>	<b>Funding Amount</b>
Awesome Spot Playground (Valley Mountain Regional Center)	\$500,000
Graffiti Museum	\$500,000
Children’s Museum	\$500,000
Convention and Visitors Bureau	\$250,000
Modesto Neighborhoods Inc.	\$120,000
<b>TOTAL</b>	<b>\$1,870,000</b>

WHEREAS, since the approval of the original spending plan, organizations have continued to reach out to the City requesting financial relief from the pandemic. The proposed programs include requests from the community and also include internal programs that have been approved for funding by the City, and

WHEREAS, these proposed allocations have been included within general allocations of COVID-19 labor expenses, homeless support, and small business support and thus reducing the original amount that was allocated to these 3 categories, and

WHEREAS, Council approval of this item would adjust three general categories of expenditures: COVID-19 labor, homeless support, and small business support in the amount of \$730,000, and

WHEREAS, approval of this item will also release funds to several community partners, nonprofits, and programs as approved in the spending plan in the amount of \$2,480,000, and

WHEREAS, each of the items for consideration are highlighted in green at the table appended to this resolution, and

WHEREAS, each of these expenditures vary in their scope and staff will continue to periodically return to Council for consideration of the items that require the creation of a new program, the development of a public-private partnership, or the approval of an agreement, and

WHEREAS, the proposed expenditures are only revisions to the Year 1 spending plan and the spending plan for the Year 2 allocation will be developed in the coming months and will be included in the FY 2022-2023 budget, and

WHEREAS, this item was previously considered by the Finance Committee on August 23, 2021 and was approved to be forwarded to Council for consideration, and

WHEREAS, the Park Ranger Program was recently approved by the Council on January 25, 2022, and the modification to the spending plan is being documented in this item.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby authorizes the City Manager to negotiate and execute Agreements with the Children's Museum, Awesome Spot Playground (Valley Mountain Regional Center), and Graffiti Museum for \$500,000 each, Convention and Visitor's Bureau for \$250,000, Modesto Neighborhoods Inc. for \$120,000, Stanislaus Equity Partners and Opportunity Stanislaus for \$100,000 each, Stanislaus Community Foundation for \$90,000, and Modesto Art Museum, Opera Theater, Prospect Theater, and State Theater for \$50,000 each.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 8th day of February, 2022, by Councilmember Ricci, who moved its adoption, which motion being duly seconded by Councilmember Madrigal, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Escutia-Braaton, Kenoyer, Madrigal, Ricci, Wright, Zoslocki, Mayor Zwahlen

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST:   
DANA SANCHEZ, Interim City Clerk

(SEAL)

APPROVED AS TO FORM:

BY:   
JOSE M. SANCHEZ, City Attorney

Program	Program Status	Original Allocation	Proposed Allocation	Remaining Funding
<b>Quality of Life</b>				
<b>COVID-19 labor expenses</b>		<b>\$4,750,000</b>		<b>\$4,630,000</b>
<i>Employee Recognition Project</i>	<i>Pending approval from Council on February 8th</i>		\$20,000	-
<i>Innovation Lab</i>	<i>Pending approval from Council on February 8th</i>		\$100,000	-
<b>Homeless Support Program</b>		<b>\$1,000,000</b>		<b>\$276,000</b>
<i>Park Rangers</i>	<i>Approved by Council January 24, 2022</i>		\$624,000	-
<i>Stanislaus Equity Partners</i>	<i>Pending approval from Council on February 8th</i>		\$100,000	-
Mental Health Clinician Program – Partnership with BHRS	This program is still in the research/development phase	\$800,000		\$800,000
Blight Abatement*	This program is still in the research/development phase	\$750,000		\$750,000
Downtown Beautification	This program is still in the research/development phase	\$700,000		\$700,000
Emergency Medical Service equipment	Expended – MFD purchase of EMS equipment	\$600,000		-
Grants to neighborhoods (Modesto Neighborhoods Inc.)	Pending approval from Council on February 8th	\$120,000	\$120,000	-
<b>Economic Vitality</b>				
<b>Small biz support with expansion and retention</b>		<b>\$1,000,000</b>		<b>\$610,000</b>
<i>Stanislaus 2030 Initiative</i>	<i>Pending approval from Council on February 8th</i>		\$90,000	-
<i>Economic Development Support</i>	<i>Pending approval from Council on February 8th</i>		\$100,000	-
<i>Support for the Arts</i>	<i>Pending approval from Council on February 8th</i>		\$200,000	-
Revolving loan fund for attraction of downtown development	This program is still in the research/development phase	\$1,000,000		\$1,000,000
Revolving loan fund for water/sewer connection fees	This program is still in the research/development phase	\$1,000,000		\$1,000,000
Tuolumne River – Economic Development	This program is still in the research/development phase	\$750,000		\$750,000
Relief Across Downtown Card	Expended – Agreement with Downtown Modesto Partnership	\$708,500		-
Implementation/support of a workforce development program	This program is still in the research/development phase	\$500,000		\$500,000
Support for Children’s Museum	Pending approval from Council on February 8th	\$500,000	\$500,000	-
Support for Awesome Spot Playground (Valley Mountain Regional Center)	Pending approval from Council on February 8th	\$500,000	\$500,000	-
Support for Car Museum	Pending approval from Council on February 8th	\$500,000	\$500,000	-
Support for Convention and Visitor’s Bureau*	Pending approval from Council on February 8th	\$250,000	\$250,000	-
Expanded Wi-Fi downtown and available at community facilities	This program is still in the research/development phase	\$200,000		\$200,000
Enhanced Infrastructure Financing District	This program is still in the research/development phase	\$200,000		\$200,000
<b>Governance and Service Delivery</b>				
Fire Station 1 Deferred Maintenance	This program is still in the research/development phase	\$2,000,000		\$2,000,000
Forestry Program Enhancements*	Expended – Public Works agreement with Grover Landscaping	\$1,850,000		-
General Plan Update	Expended – General Plan update expenditures	\$700,000		-
Discoverer Replacement	This program is still in the research/development phase	\$500,000		\$500,000
Cybersecurity Mitigation	This program is still in the research/development phase	\$490,000		\$490,000
TSP Battery Back Up System Upgrade	This program is still in the research/development phase	\$250,000		\$250,000
Address deferred maintenance at various parks and public facilities	This program is still in the research/development phase	\$1,270,028		\$1,270,028
Upgrade software for Utility billing	This program is still in the research/development phase	\$60,000		\$60,000
<b>TOTAL</b>		<b>\$22,948,528</b>	<b>\$3,104,000</b>	<b>\$15,986,028</b>

Items highlighted in green show proposed expenditures for consideration by the Council.

\*Items marked with an asterisk (\*) are two-year allocations

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2022-106**

**RESOLUTION APPROVING A WILL SERVE LETTER AND OUTSIDE SERVICE AGREEMENT BETWEEN THE CITY OF MODESTO AND MODESTO IRRIGATION DISTRICT, A CALIFORNIA IRRIGATION DISTRICT, TO CONNECT TO THE CITY OF MODESTO'S EXISTING SEWER SYSTEM FOR THE PROPERTY LOCATED AT 792 CODONI AVENUE (APN: 009-019-047), AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO THE SIGN THE WILL SERVE LETTER AND EXECUTE THE OUTSIDE SERVICE AGREEMENT**

WHEREAS, Modesto Irrigation District, a California Irrigation District, owns commercial property located at 792 Codoni Avenue which is located outside of Modesto City Limits and inside the City's Sphere of Influence; and

WHEREAS, the property located at 792 Codoni Avenue, is not connected to City's sewer system and is requesting a sewer connection for a new facility; and

WHEREAS, on November 25, 2014, City Council approved Resolution No. 2014-473 amending City Council Policy 5.002; and

WHEREAS, on December 9, 2014, City Council approved adoption of Ordinance No.3612-C.S. amending City of Modesto Municipal Code Section 11-1.05; and

WHEREAS both of these amendments included language allowing the City Manager, upon the recommendation of the Director responsible for utility system planning, to approve standard agreements of service for extension of sewer services into certain unincorporated areas without City Council approval; and

WHEREAS, the property located at 792 Codoni Avenue is not located within one of those designated areas and therefore requires City Council approval prior to allowing the sewer connection; and

WHEREAS, City staff has completed an analysis and determined that it is reasonable for the City of Modesto to provide sewer service to this property; and

WHEREAS, pursuant to Government Code Section 56133, a city may provide extended services outside its jurisdictional boundaries only if it first requests and receives written approval from the Stanislaus Local Agency Formation Commission (LAFCO); and

WHEREAS, the City requested and obtained approval from LAFCO on August 24, 2077 for extended sewer services to an area known as the Beard Industrial Area, including the subject parcel at 792 Codoni Avenue; and sewer connection fees shall be paid and associated permits will be obtained prior to connecting to the City sewer system; and

WHEREAS, the property owner has executed an Outside Service Agreement for sewer service with the City as required to receive sewer service outside the City limits.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves a Will Serve Letter and Outside Service Agreement between the City of Modesto and Modesto Irrigation District, a California irrigation district, to connect to the City of Modesto's existing sewer system for the property located at 792 Codoni Avenue (APN: 009-019-047).

BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to approve the Will Serve letter and execute the Outside Service Agreement for sewer service.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 1st day of March, 2022, by Councilmember Madrigal, who moved its adoption, which motion being duly seconded by Councilmember Zoslocki, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Kenoyer, Madrigal, Ricci,  
Wright, Zoslocki, Mayor Zwahlen

NOES: Councilmembers: None

ABSENT: Councilmembers: Escutia-Braaton

ATTEST:   
DANA SANCHEZ, Interim City Clerk

(SEAL)

APPROVED AS TO FORM:

BY:   
JOSE M. SANCHEZ, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2022-107**

**RESOLUTION APPROVING AN AGREEMENT FOR AN ANALYSIS OF  
EMERGENCY DISPATCH SERVICE OPTIONS WITH MISSION CRITICAL  
PARTNERS, FOR AN AMOUNT OF \$156,741, WITH AN 8% CONTINGENCY  
OF \$12,539, FOR A NOT TOTAL NOT TO EXCEED \$169,280 AND  
AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE TO EXECUTE  
THE AGREEMENT**

WHEREAS, in accordance with Chapter 5 of Division 7 of Title 1 of the Government Code of the State of California (commencing with code 6500), the City of Modesto and the County of Stanislaus entered into a Joint Exercise of Powers Agreement (JPA) for Emergency Dispatch Services beginning September 1, 1999, and

WHEREAS, the agency is governed by a seven-member Commission consisting of members of both parties of the agreement, as noted in Section 8.1 of the JPA agreement, and

WHEREAS, the Consolidated Emergency Dispatch Agency is also known as Stanislaus Regional 9-1-1 (SR911), and

WHEREAS, the SR911 provides primary law and fire dispatch services and is designated as the Public Safety Answering Point (PSAP) for the partner agencies, and

WHEREAS, the agreement includes the joint acquisition of property located at 3705 Oakdale Road, Modesto; whereas, both entities lease the property to SR911 for the purpose of providing a primary site for dispatch services and for other purposes approved by the Consolidated Emergency Dispatch Agency Commission (Commission), and

WHEREAS, on August 23, 2016, the City of Modesto City Council and County of Stanislaus Board of Supervisors approved to amend Section 6.1 of the JPA agreement as follows:

“Any Member can terminate this Agreement at any time by providing a written notice of intent to terminate to the Commission and all Members at least twenty-four (24) months in advance of the desired termination date. For example, the notice of intent to terminate shall be provided no later than December 31, 2018 to terminate this Agreement on December 31, 2020. In keeping with the intent of the original Agreement dated September 1, 1999, no Member can terminate this Agreement with an effective date prior to August 31, 2019.”, and

WHEREAS, the City of Modesto has participated in many processes in partnership with the SR911 to improve the quality of services at a reasonable cost for Modesto residents, and

WHEREAS, because the City has made it a priority to perform detailed evaluation of programs city-wide, it is important to consider all options to provide high-quality and economical services, and

WHEREAS, because the City is a partner with the JPA, options are limited to dispatch services provided solely by SR911, and

WHEREAS, in order to explore additional financial, operational, and innovative opportunities within this critical function, it is necessary to consider options that may extend beyond a financial partnership with the County of Stanislaus, and

WHEREAS, it is important to exhaust all potential options that will bring the highest yield of community benefit to the Modesto residents, and

WHEREAS, it is recommended that Council consider additional options outside of the formal JPA partnership, and

WHEREAS, on October 12, 2021, Council approved Resolution 2021-413 authorizing the City Manager to provide the Consolidated Emergency Dispatch Agency Commission with a written notice of an intent to terminate the Joint Exercise of Powers

Agreement between the City of Modesto and the County of Stanislaus for Emergency Dispatch Services Effective January 1, 2024, and

WHEREAS, since Council's approval to provide a notice of intent to terminate the JPA agreement, there is a need to expedite the evaluation of emergency dispatch service options to best meet the needs of the community, and

WHEREAS, the City released a formal Request for Proposals for consultant support on December 15, 2021, and

WHEREAS, the City received a total of three proposals, which were evaluated by an interdepartmental committee representing the following departments: City Manager's Office, Police Department, Fire Department, Finance, and Information Technology, and

WHEREAS, Mission Critical Partners was ranked highest by the committee and was ultimately selected for this project because of their experience, strategy, and overall familiarity with these types of projects, and

WHEREAS, if approved by Council, the City will initiate project meetings, develop project schedules, and coordinate virtual and on-site tours, to enhance the emergency dispatch experience for the Modesto Community, and

WHEREAS, the scope of work will specifically require a full assessment and evaluation of the current and prospective public safety dispatch models that will best serve our community and our changing needs for enhanced public safety dispatch services, and

WHEREAS, the main focus is to obtain recommendations on alternative public safety dispatch models that leverage existing and future innovative technology and

practices that will meet the needs of our community and local government partners well into the future.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the agreement for an analysis of emergency dispatch service options with Mission Critical Partners, for an amount of \$156,741, with an 8% contingency of \$12,539, for a total not to exceed \$169,280.

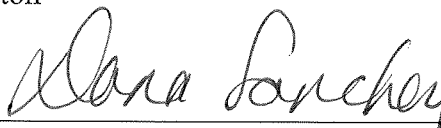
BE IT FURTHER RESOLVED, that the City Manager, or his designee, is hereby authorized to execute the agreement, in a form approved by the City Attorney.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 1st day of March, 2022, by Councilmember Madrigal, who moved its adoption, which motion being duly seconded by Councilmember Zoslocki, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Kenoyer, Madrigal, Ricci,  
Wright, Zoslocki, Mayor Zwahlen

NOES: Councilmembers: None

ABSENT: Councilmembers: Escutia-Braaton

ATTEST:   
DANA SANCHEZ, Interim City Clerk

(SEAL)

APPROVED AS TO FORM:

BY:   
JOSE M. SANCHEZ, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2022-108**

**RESOLUTION APPROVING REQUIREMENTS FOR ANNUAL TRAINING OF  
CERTAIN CITY OF MODESTO EMPLOYEES AND OFFICIALS REGARDING  
THE MUNICIPAL DISCLOSURE RESPONSIBILITIES**

WHEREAS, as an issuer of municipal securities, the City's employees and officials must regularly review their responsibilities and internal processes to ensure continuing compliance with the Securities Act, and

WHEREAS, the City's Debt Management Policy includes language requiring annual training for certain City employees and officials, and

WHEREAS, the City contracts with Norton Rose Fulbright to provide legal counsel for bonds and related issues, and

WHEREAS, the training presented under the **Attachment** – Training Presentation will be designed to meet the requirements of applicable securities laws and the City's Debt Management Policy.

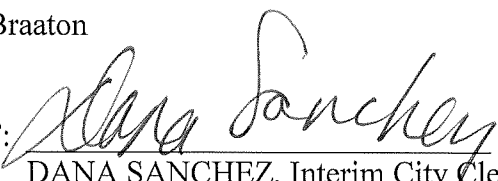
NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the training presentation provided by Norton Rose Fulbright as satisfying the annual training requirement of the City's Debt Management Policy for certain City of Modesto employees and officials regarding municipal disclosure responsibilities.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 1st day of March, 2022, by Councilmember Madrigal, who moved its adoption, which motion being duly seconded by Councilmember Zoslocki, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Kenoyer, Madrigal, Ricci,  
Wright, Zoslocki, Mayor Zwahlen

NOES: Councilmembers: None

ABSENT: Councilmembers: Escutia-Braaton

ATTEST:   
DANA SANCHEZ, Interim City Clerk

(SEAL)

APPROVED AS TO FORM:

BY:   
JOSE M. SANCHEZ, City Attorney



# CITY OF MODESTO: DISCLOSURE RESPONSIBILITIES UNDER THE FEDERAL SECURITIES LAWS

December 13, 2021

Presented by:

Dave Angelo Sanchez, Senior Counsel

Norton Rose Fulbright US LLP



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## Why this Training?

- SEC repeatedly emphasizes that disclosure is primarily the issuer's responsibility because issuer officials and staff are in the best position to know material facts. Recent actions brought against California school districts have reinforced that point.
- Issuer should raise material facts for outside counsel to analyze for securities law purposes
- Training on disclosure roles and responsibilities as well as disclosure policies can demonstrate the "reasonableness" of an issuer's actions with respect to disclosure decisions.

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## Federal Securities Laws

- 1933 Act and 1934 Act
- 1933 Act has two substantive rules:
  - Registration requirement
  - Antifraud rule
- Municipal securities are exempt from the registration requirement, but are subject to antifraud rule
- What does fraud mean in this context? Can't "obtain money" by means of any untrue statement of a *material* fact or by a misleading omission.
- '34 Act and Rule 10b-5 have similar language (10b-5 certificate)



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## SEC Initiatives

- SEC Enforcement Division has a specialized Unit focused on Public Finance Abuse – 30+ attorneys around the country.
- Dodd-Frank Act has given SEC new power to obtain fines in administrative actions. This means the SEC is more likely to fine issuer officials for disclosure violations.



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## When do Disclosure Rules Apply?

- Primary Disclosure/new offerings (POS and Official Statement): **Issuer has primary responsibility** because issuer and issuer officials and staff are in best position to know material facts.
- Annual report under Rule 15c2-12 (continuing disclosure)
- Any other circumstance where an Issuer is “speaking to the market” such as voluntary disclosure. *Generally no requirement to update or correct statements previously made – even Rule 15c2-12 does not require a notice filing for “other material events.”*



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## Levels of Potential Guilt Under Anti-fraud Rules

- **Negligence (Rule 17(a)(2))**
- Recklessness (Rule 17(a)(2) or Rule 10b-5)
- Intent to defraud (“scienter”) (Rule 17(a)(2) or Rule 10b-5)
- If anti-fraud rules can be boiled down to the admonition “don’t lie,” the fact that certain charges can be brought by the SEC based on negligence means that the test really is “don’t accidentally lie.” This includes neglecting to mention material information as well as including inaccurate information.



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## Possible Sanctions for Anti-fraud Violations

- In SEC's view, prior use of "cease and desist" orders did not send strong enough message to issuers and issuer officials and staff.
- SEC increasingly imposing sanctions on individual municipal officials. These generally involve civil penalties and bars from the industry. May involve separate legal representation and cost to the individual.
- Investors may also bring an action against an issuer if they can demonstrate reliance on and damages from false or misleading disclosure made intentionally or recklessly (but not negligently).
- **Primary risk is an SEC action because it is easier to show negligence and there is no requirement to show monetary harm.**



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## Possible Sanctions for Anti-fraud Violations

- In extreme cases, the SEC may refer a case to the DOJ and criminal actions may be brought, with penalties that may include imprisonment.
- Other consequences of SEC actions include
  - (i) fees for lawyers and expert witnesses,
  - (ii) adverse publicity and political upheaval,
  - (iii) loss of market access or increased borrowing costs (rating downgrades, loss of investor confidence, higher credit provider fees), and
  - (iv) costly ongoing requirements to impose procedures and oversight of bond issues



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## The “Materiality” Standard

- “[w]hether or not there is a substantial likelihood that a reasonable investor or prospective investor would consider the information important in deciding whether or not to invest.”
- Materiality is determined in context of all the facts and circumstances, but usually on a retroactive basis in court cases or SEC enforcement actions.
- When information pertains to a possible future event, “materiality will depend at any given time upon a balancing of both the indicated probability that the event will occur and the anticipated magnitude of the event.”
- *Cannot reduce materiality to a set percentage of revenues (5%). This can be a helpful point to start discussion but other factors will apply.*



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## SEC Guidance on Materiality – Accounting Issues

- Staff Accounting Bulletin No. 99  
<https://www.sec.gov/interps/account/sab99.htm>
- *Cannot reduce materiality to a set percentage of revenues (5%). This can be a helpful point to start discussion but other factors will apply.*
  - Among the factors identified by the SEC that could make a quantitatively small misstatement material are –
  - whether the misstatement arises from an item capable of precise measurement or whether it arises from an estimate and, if so, the degree of imprecision inherent in the estimate
  - whether the misstatement masks a change in earnings or other trends
  - whether the misstatement hides a failure to meet expectations for the enterprise



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## SEC Guidance on Materiality – Accounting Issues

- whether the misstatement changes a loss into income or vice versa
- whether the misstatement affects the issuer’s compliance with regulatory requirements
- whether the misstatement affects the issuer’s compliance with loan covenants or other contractual requirements (Westlands)
- whether the misstatement has the effect of increasing management’s compensation – for example, by satisfying requirements for the award of bonuses or other forms of incentive compensation
- whether the misstatement involves concealment of an unlawful transaction
- This is not an exhaustive list of the circumstances that may affect the materiality of a quantitatively small misstatement



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## “Bespeaks Caution” Doctrine

- Optimistic forecasts or projections in an offering document are not fraudulent when accompanied by specific disclaimers or warnings of the risks associated with the investment.
- SEC Staff recently underscored the importance of this doctrine in encouraging issuers to provide more voluntary disclosure about COVID-19 impacts
- Bottom line – it is OK if your projections don’t come to pass as long as they were reasonable (and not manipulated) at the time they were made.



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## Disclosure Regarding Complex, Uncertain and Evolving Risks (COVID-19/Cybersecurity/Climate)

- In early 2019 SEC Staff provided guidance (non-binding) on how to provide disclosure about complex and evolving risks.
- Guidance would be applicable to COVID-19 issues.
- Merely stating that a risk exists and that it is an uncertain risk that could materially and adversely affect the issuer was considered to be “insufficient” to guide investors in a meaningful manner.
- Rather, disclosure on each of these topics should focus on what the issuer (City of Modesto) is actually knows about how the risk impacts them.
- Should also disclose what the City is doing with respect to each type or disclose that it has not yet taken any action.



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## Roles of Professionals with Respect to Disclosure

Why doesn't paying all of these professionals for their services absolve the City and City officials and staff of responsibility for disclosure misstatements and omissions?

- Disclosure Counsel
- Bond Counsel
- Issuer's Counsel
- Underwriters and Underwriter's Counsel
- Municipal Advisor
- Accountants
- Feasibility Consultants

Most do not have an obligation to verify information provided by the City. (Allen Park)



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## Proper Reliance on Professionals by Issuers

- City of Miami. Required elements:
  - (i) Did you make complete disclosure to the professional regarding the issue,
  - (ii) Did you explicitly seek professional advice as to the appropriateness of the conduct (mere participation in the transaction is not enough),
  - (iii) Did you receive advice that the conduct was appropriate and
  - (iv) Did you rely on that advice in good faith.



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## SEC Enforcement Actions – Lessons for Issuers

- Orange County, California – **Governing Board Responsibility**
  - **What happened?** Orange County filed for bankruptcy after a substantial drop in the value of its County investment pools. Amongst other things, County did not disclose its economic reliance on the investment results in the County investment pools and the risks of its investment strategy.
  - **What did the SEC do?** Order against the issuer officials (treasurer and assistant treasurer) stated that the treasurer and assistant treasurer acted with intent since they were involved in the daily management of the Orange County Investment Pools and directed the investments, giving them actual knowledge of material facts misstated or omitted from the Official Statements.



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## SEC Enforcement Actions – Lessons for Issuers

- Orange County, California – **Governing Board Responsibility**
- SEC issued a Report of Investigation concerning the conduct of individual members of the Board of Supervisors. SEC found that:
  - the Board of Supervisors should have investigated and ensured adequate disclosure of the County’s finances;
  - Important fact was that Treasurer was supposed to provide periodic reports to Board on investments and had missed required reports
  - the Board of Supervisors cannot rely on its professional advisors for information within its knowledge, for example, budget information; and
  - officials cannot authorize disclosure known to be false or that omit information.
  - Board approval of disclosure documents (or review and comment by the Board) is considered as part of the reasonableness of the overall disclosure process (see discussion on control person liability).



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## SEC Enforcement Actions – Lessons for Issuers

- Allen Park, Michigan – **Control Person Liability for Municipal Officials**
- SEC focused on the Mayors’ status as a person of control within the structure of the City of Allen Park. The SEC is not required to prove that control persons have knowledge of fraudulent activity. Participation in the fraud is unnecessary just that the official had oversight responsibility. Issuer must supply the defense that they “acted in good faith.” Section 20(a) of the 1934 Act. (OC Example)
- Control person liability poses new risks for municipal officials. The implementation of disclosure policies and procedures as well as training programs may help establish the “good faith” defense for issuer officials and staff in supervisory positions.



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## SEC Enforcement Actions – Lessons for Issuers

- Sweetwater and Montebello, California – **Issuer and Issuer Official Responsibility**
- What happened? Montebello's independent auditor repeatedly raised concerns about allegations of fraud at the District. The SEC alleged that a District official concealed the audit firm's concerns by providing deceptive updates about the status of its pending audit to various gatekeepers, including disclosure counsel.
- In Sweetwater the District failed to account for salary increases when it adopted a budget and then withheld from transaction team internal reports that showed that expenses were coming in over budget.



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## SEC Enforcement Actions – Lessons for Issuers

- What did the SEC do? In Montebello the SEC charged the interim superintendent (had been in job six weeks) and the chief business officer including with control person liability. **Although interim superintendent was not the main one involved in the fraud, SEC found that he did not review offering documents before certifying its content** and did not conduct any diligence before signing the certificates. \$10,000 fine.
- In Sweetwater both the District and the former CFO were charged. Sweetwater CFO banned from future municipal bond offerings and \$28,000 fine.



## Continuing Disclosure

- SEC Rule 15c2-12 governs underwriter conduct and generally requires underwriters in primary offerings to –
  - obtain, review and distribute to potential investors copies of the Issuer’s “deemed final” Official Statement (which Official Statement includes a description of any instances in the previous five years in which the obligated person or persons failed to comply, in all material respects, with any previous commitment to provide continuing disclosure); and
  - obtain a written undertaking of the Issuer or obligated person that it will (a) provide “annual financial information” as required by Rule 15c2-12 and (b) file timely notices of certain enumerated events.



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## Key Provisions of Continuing Disclosure Agreement

- Annual Reports must include updated financial information and operating data. “Annual financial information” is financial information or operating data of the type included in the final Official Statement.
- Pay attention to what the City has promised to do (included in disclosure policy)
- Notification of specified “enumerated events,” for which written notification must be filed within 10 business days of the occurrence of the event.



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## Content of Annual Reports

- Audited Financial Reports
- Information (i.e. tables) identified in Continuing Disclosure Undertakings (in disclosure policy)
- Additional voluntary information
- Consider Rule 10b-5 implications – is there more you should be saying?
- Has anything happened since the date of the audited financial reports that has materially impacted your financial condition?  
COVID-19 has made this particular point very important because last year's audited financials could not have anticipated the impact of COVID-19. Presenting them now requires additional context.



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## Continuing Disclosure Process

- Again, when preparing the annual report you have to consider Rule 10b-5 implications – is there more you should be saying?
- Because of that the annual report and the responsibility for identifying “enumerated events” has an internal process identified to make sure that material information does not slip through the cracks.
- Any questions about the continuing disclosure process?



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## Primary Offering Process (Drafting POS/OS)

- Input from involved staff and officials with the best knowledge about issues that materially affect disclosure (e.g. counsel with respect to significant (material) litigation).
- Empower staff at all levels to critically examine information to be provided to investors
- Politically sensitive information still must be disclosed (greed can be the downfall of corporate issuers – sometimes politics is the downfall of municipal issuers). Reluctance to raise tax or utility rates can also cause issues for municipal entities.



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## Disclosure Principles (All Disclosure Documents)

- Provide main points but do not overwhelm readers with detail – remember the big picture of explaining what revenue sources (security) is being used to repay the bonds and disclosing things that can affect the availability of that revenue source (materiality).
- Highlight important developments or events that could affect the pledged revenue source appropriately
- Focus on developments specific to the City and not general market forces
- Bringing all these factors together into final product is ongoing process of give and take.



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## Timing Considerations for Bond Sale

- Disclosure team should be aware of the progression of an offering
  - POS/sale/final OS/closing
- Supplements are possible
  - Can be disruptive after sale
- Be mindful of public actions or releases likely to occur
  - Interim financials, budgets, litigation developments, other interim reports



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## Summary

- Complete and transparent disclosure with respect to the specific security being sold is essential
- Remember antifraud violations can arise from negligence and not an intent to deceive.
- Officials participating in the disclosure process must be in a position to know material information with respect to that security (i.e., “the right people must be in the room”)
- Your hired professionals can only help if they know this material information with respect to the City – generally outside counsel and advisors do not have a duty to do an independent investigation of facts about the City – they assist you based on the facts that you communicate to them.
- SEC increasingly bringing charges against individual municipal officials



CITY OF  
**MODESTO**  
CALIFORNIA

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2022-109**

**RESOLUTION EXPANDING THE ROLE OF THE CANNABIS PERMIT  
REVIEW COMMITTEE AND RENAMING IT TO BE KNOWN AS THE  
“CANNABIS PROGRAM AND PERMIT REVIEW COMMITTEE” AND  
RESCINDING RESOLUTION NO. 2021-132**

WHEREAS, on November 8, 2016, California voters approved Proposition 64, also known as the Adult Use of Marijuana Act (“AUMA”), legalizing recreational use of cannabis for adults 21 years of age and older; and

WHEREAS, the California Legislature passed Senate Bill 94 in June 2017, which was signed by the Governor and went into effect immediately, and which repealed the Medical Cannabis Regulation and Safety Act (“MCRSA”), and merged certain portions of that law with AUMA to create a more comprehensive regulatory structure for both medical and recreational cannabis; and

WHEREAS, the comprehensive regulatory system created by Senate Bill 94, intended to regulate all commercial cannabis uses, is called the Medicinal and Adult Use Cannabis Regulation and Safety Act (“MAUCRSA”); and

WHEREAS, the California Bureau of Cannabis Control has promulgated and adopted regulations (“BCC Regulations”) regarding commercial cannabis uses within the state; and

WHEREAS, the City of Modesto (“City”) adopted ordinances regulating all commercial cannabis activities within the City; and

WHEREAS, pursuant to Ordinance No. 3684-C.S, Section 10-3.704(f) of the Modesto Municipal Code/Zoning Code, the City Council is authorized to establish a Cannabis Permit Review Committee; and

WHEREAS, pursuant to Section 10-3.704(f), the Council adopted Resolution No. 2021-132, establishing a Cannabis Permit Review Committee to review and approve non-storefront and nondelivery commercial cannabis permits; and

WHEREAS, the Cannabis Permit Review Committee does not currently consider issues beyond the approval of certain commercial cannabis permits; and

WHEREAS, the City finds that an increased role for the Cannabis Permit Committee will allow the City to comply with State law more effectively and lead to increased efficiency in passing cannabis-related laws, and regulations; and

WHEREAS, the City desires to expand the role of the Cannabis Permit Review Committee to make recommendations to the City Council for cannabis-related laws and regulations, in addition to reviewing and approving non-storefront and nondelivery commercial cannabis permits; and

WHEREAS, in order to better reflect the expanded role of the Cannabis Permit Review Committee, the City desires to rename the standing committee to be known as the “Cannabis Program and Permit Review Committee.”

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby renames the “Cannabis Permit Review Committee,” to be known as the “Cannabis Program and Permit Review Committee.”

BE IT FURTHER RESOLVED that the Cannabis Program and Permit Review Committee shall be:

1. A three (3) member standing committee of the City of Modesto;
2. Subject to state open meeting laws (“Brown Act”);

3. Comprised solely of members of the City Council, and Committee Members shall be appointed by the majority of the City Council;

4. The Committee shall monitor and review the State's effort to promulgate cannabis-related laws and regulations and make recommendations to the City Council for the adoption of City laws and regulations pertaining to cannabis-related activity in the City as well as make recommendations regarding any other cannabis program related matters; and

5. Perform the duties established under the City's Commercial Cannabis Ordinance, codified as Article 7, of Chapter 3, of Title 10 of the City's Municipal Code.

BE IT FURTHER RESOLVED that Members of the Cannabis Program and Permit Review Committee will be appointed by the Mayor and approved by the City Council.

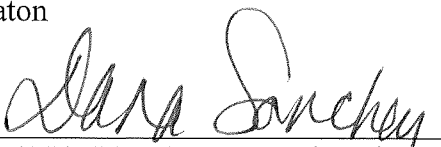
BE IT FURTHER RESOLVED that City Resolution No. 2021-132 is hereby rescinded.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 1st day of March, 2022, by Councilmember Kenoyer, who moved its adoption, which motion being duly seconded by Mayor Zwahlen, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Kenoyer, Madrigal, Ricci,  
Wright, Zoslocki, Mayor Zwahlen

NOES: Councilmembers: None

ABSENT: Councilmembers: Escutia-Braaton

ATTEST:   
DANA SANCHEZ, Interim City Clerk

(SEAL)

APPROVED AS TO FORM:

BY:   
JOSE M. SANCHEZ, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2022-110**

**RESOLUTION APPROVING A FIRST AMENDMENT TO THE EMPLOYMENT AGREEMENT WITH JOSEPH P. (“JOE”) LOPEZ, CITY MANAGER, DATED JULY 10, 2018 TO INCREASE BASE SALARY TO \$256,221.**

WHEREAS, on April 1, 2017, Council appointed Mr. Lopez as Acting City Manager and

WHEREAS, on July 5, 2017, by Resolution No. 2017-265, Council appointed Mr. Lopez as Interim City Manager and

WHEREAS, on July 10, 2018, by Resolution No. 2018-297, Council appointed Mr. Lopez to the role of City Manager, and

WHEREAS, Mr. Lopez has served as City Manager for three years and seven months, and

WHEREAS, pursuant to the City Manager’s agreement, consideration shall be given on an annual basis to increase compensation following an annual performance evaluation, and

WHEREAS, on December 3, 2021, the Human Resources Department under the authorization of the City Council, initiated a Request for Proposals from eleven consulting firms known for public sector executive performance evaluation facilitation, and

WHEREAS, three responsive proposals were received and Municipal Resource Group, LLC was chosen to assist Council in the performance evaluation process, and

WHEREAS, the evaluation process began in January of 2022, and

WHEREAS, Council met in closed session on February 8, 2022 to finalize the evaluation and deliver the results to the City Manager, and

WHEREAS, results of the evaluation were very positive and rated Mr. Lopez as “highly competent,” and

WHEREAS, Council voted to give the City Manager a salary increase based on the results, and

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves a First Amendment to the Employment Agreement for Joseph P. (“Joe”) Lopez to increase base compensation to \$256,221 with an additional 2.5% education incentive to bring the total compensation to \$262,627 effective March 1, 2022.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 1st day of March, 2022, by Councilmember Zoslocki, who moved its adoption, which motion being duly seconded by Councilmember Wright, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Kenoyer, Madrigal, Ricci,  
Wright, Zoslocki, Mayor Zwahlen

NOES: Councilmembers: None

ABSENT: Councilmembers: Escutia-Braaton

ATTEST:   
DANA SANCHEZ, Interim City Clerk

(SEAL)

APPROVED AS TO FORM:

BY:   
JOSE M. SANCHEZ, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2022-111**

**RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MODESTO  
CONDEMNING THE UNPROVOKED ASSAULT ON UKRAINE'S SOVEREIGN  
NATION BORDERS, INDEPENDENCE AND TERRITORIAL INTEGRITY,  
AND OPPOSING THE UNNECESSARY VIOLENCE THIS CONFLICT HAS  
CAUSED**

WHEREAS, the City of Modesto recognizes the horrors and the humanitarian crisis that the unprovoked assault on Ukraine's sovereign national borders, independence and territorial integrity has brought upon the people of Ukraine; and

WHEREAS, the peace in Ukraine has been shattered and freedom of the Ukrainian people threatened by a dictator that does not share our values of peace, freedom, and self-determination; and

WHEREAS, the Ukrainian people, their leadership, and their President have shown the world what bravery and patriotism look like in the face of an illegal assault on Ukrainian sovereignty; and

WHEREAS, a free and independent Ukraine is vital in promoting and perpetuating peace, freedom, and the democratic rule of law; and

WHEREAS, a democracy is the greatest form of government, and self-rule and self-determination are the natural state of humanity; and

WHEREAS, American-Ukrainian relations have served as an example of peace, freedom, democracy, and human rights; and

WHEREAS, the City of Modesto has been Sister Cities with the City of Khmelnytskyi, Ukraine since 1987; and

WHEREAS, the Cities of Modesto and Khmelnytskyi have developed deep and meaningful bonds of friendship through cultural exchanges that enrich the City and citizens of Modesto; and

WHEREAS, Ukraine and the Ukrainian people represent a distinct culture with a long and proud history.

NOW THEREFORE BE IT RESOLVED, that the City Council of the City of Modesto, condemn the violation of Ukraine's sovereign nation borders, and oppose the unnecessary and tragic loss of life this unprovoked and illegal invasion has caused; and


BE IT FURTHER RESOLVED, that we, the City Council of the City of Modesto, recognize the bravery and patriotism of the people of Ukraine as they fight to defend their right to peace, freedom, and the democratic rule of law, and affirm our support to the sovereignty, independence, and territorial integrity of Ukraine.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 8th day of March, 2022, by Councilmember Zoslocki, who moved its adoption, which motion being duly seconded by Councilmember Wright, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Escutia-Braaton, Kenoyer, Madrigal, Ricci, Wright, Zoslocki, Mayor Zwahlen

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST:   
DANA SANCHEZ, Interim City Clerk

(SEAL)

APPROVED AS TO FORM:

BY:   
JOSE M. SANCHEZ, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2022-112**

**RESOLUTION CONTINUING TO AUTHORIZE REMOTE  
TELECONFERENCE MEETINGS OF THE CITY OF MODESTO PURSUANT  
TO ASSEMBLY BILL 361**

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

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

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

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

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

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

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

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

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

WHEREAS, on September 28, 2021, the City Council adopted Resolution No. 2021-370 authorizing remote teleconference meetings pursuant to AB361 (Government Code section 54953(e)); and

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

WHEREAS, the City Council has considered the circumstances of the Governor’s state of emergency proclamation pursuant to Government Code section 8625, which remains active; and

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

WHEREAS, the City Council, acting for itself and for the benefit of all of the City’s commissions, committees, and other bodies (collectively referred to as the “Legislative Bodies”), does hereby find that the Legislative Bodies shall continue to conduct their meetings without compliance with Government Code section 54953(b)(3), as authorized by Government Code section 54953(e), and that the Legislative Bodies shall continue to comply with the requirements to provide the public with access to the meetings as prescribed in Government Code section 54953(e)(2) as a consequence of the ongoing state of emergency and the continued social distancing measures required by local officials.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF MODESTO DOES HEREBY RESOLVE AS FOLLOWS:

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

Section 2. Consideration of State of Emergency. The City Council has considered the conditions of the state of emergency declared pursuant to Government Code section 8625, and determined that such emergency conditions continue to be present in the City.

Section 3. Continued Social Distancing Measures by State and Local Officials. The City Council finds that the County of Stanislaus Health Officer’s recommended measures to promote social distancing remain in effect.

Section 4. Remote Teleconference Meetings. The City Council finds that the conditions continue to exist pursuant to Government Code section 54953(e)(3) to allow Legislative Bodies to use teleconferencing to hold public meetings in accordance with Government Code section 54953(e)(2) to ensure members of the public have continued access to safely observe and participate in local government meetings.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 8th day of March, 2022, by Councilmember Escutia-Braaton, who moved its adoption, which motion being duly seconded by Councilmember Wright, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Escutia-Braaton, Kenoyer, Madrigal, Ricci, Wright, Mayor Zwahlen

NOES: Councilmembers: None

ABSENT: Councilmembers: Zoslocki

ATTEST:   
DANA SANCHEZ, Interim City Clerk

(SEAL)

APPROVED AS TO FORM:

BY:   
JOSE M. SANCHEZ, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2022-113**

**RESOLUTION AMENDING THE FISCAL YEAR 2021-22 ANNUAL  
OPERATING AND CAPITAL IMPROVEMENT FUND BUDGETS AND  
AUTHORIZING THE CITY MANAGER, TO TAKE THE NECESSARY STEPS  
TO IMPLEMENT THE PROVISIONS OF THIS RESOLUTION**

WHEREAS, a financial analysis has been completed and it has been determined that a budget adjustment is required to the Annual and Capital Improvement Budgets of the City of Modesto for Fiscal Year 2021-22.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves amending the Fiscal Year 2021-22 Annual Operating and Capital Improvement budget as shown in **Exhibit A**, which is **attached** hereto and incorporated by reference herein.

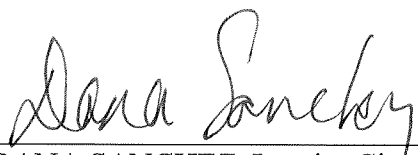
BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to take the necessary steps to implement the provisions of this resolution.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 8th day of March, 2022, by Councilmember Kenoyer, who moved its adoption, which motion being duly seconded by Councilmember Wright, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Escutia-Braaton, Kenoyer, Madrigal, Ricci, Wright, Zoslocki, Mayor Zwahlen

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST:   
DANA SANCHEZ, Interim City Clerk

(SEAL)

APPROVED AS TO FORM:

BY:   
JOSE M. SANCHEZ, City Attorney

**EXHIBIT A**

**FISCAL YEAR 2021-22**

**COMMUNITY & ECONOMIC DEVELOPMENT**

- A budget adjustment in the amount of \$50,000 is needed to increase the revenue, expense and transfer budgets for project 101296 – Boys and Girls First Tee. The increase in budget is for staff time and administrative expenses. When the project budgets were approved, these items were not included. These increases will be funded by Housing and Urban Development (HUD) Community Development Block Grant funding.
- A budget adjustment in the amount of \$55,000 is needed to increase the revenue, expense and transfer budgets for project 100866 – Senior Playground. The increase in budget is for staff time and administrative expenses. When the project budgets were approved, these items were not included. These increases will be funded by Housing and Urban Development (HUD) Community Development Block Grant funding.

**FIRE DEPARTMENT**

- A budget adjustment is necessary to increase both the revenue and expenditure budgets for the newly created General Fund (0100) cost center 18214 (MFD - Fire Services for Turlock) for the Turlock Fire Services contract amounts for the remainder of the current Fiscal Year. This adjustment will increase the revenue budget in the cost center by \$126,555 in account 42410 (Intergov - Local - City of Turlock) to collect the revenue from Turlock for administrative fire services provided per the contract. The expenditure budget will increase by \$107,805 in the cost center in accounts 51401 (Budget Only - Salary Adjustment - New Position) and 51901 (Budget Only - Benefit Adjustment - New Position) to cover the costs of the Deputy Fire Chief position for the remainder of the fiscal year.

**UTILITIES**

- A budget adjustment in the amount of \$236,000 is needed to increase the expense budget for the MID Surface Water Treatment & Delivery Agreement Cost Center – 45070 within Water Fund 4100. The increase in budget is for the principal repayments of the 2007 F Bonds. The increase in budget will come from the Water Fund 4100 fund balance as there are sufficient funds available.

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2022-114**

**RESOLUTION APPROVING AN EMERGENCY SOLUTIONS GRANT CARES ACT (ESG-CV2) TO STANISLAUS COUNTY AFFORDABLE HOUSING CORPORATION FOR THE RENOVATION OF THE SHELTER LOCATED AT 512 VINE STREET, MODESTO, CA 95351 IN AN AMOUNT NOT TO EXCEED \$186,000 AND \$20,000 IN ACTIVITY DELIVERY TO PREVENT, MITIGATE, AND RESPOND TO THE SPREAD OF COVID-19 AND AUTHORIZING THE CITY MANAGER OR HIS DESIGNEE TO EXECUTE ANY DOCUMENTS AND/OR AGREEMENTS**

WHEREAS, the City of Modesto is an entitlement community under three U.S. Department of Housing and Urban Development (HUD) programs within its Office of Community Planning and Development (CPD), and

WHEREAS, as an entitlement community, the City annually receives entitlement funds from the Community Development Block Grant, Emergency Solutions Grant, and HOME Investment Partnerships Program (HOME) programs, and

WHEREAS, on March 27, 2020, the United States Congress passed the Coronavirus Aid, Relief, and Economic Security Act (CARES Act – H.R. 748), and

WHEREAS, through the first round of funding, the City of Modesto was awarded \$1,118,269 in CDBG-CV1 and \$567,410 in ESG-CV1, and

WHEREAS, this funding was programmed by 2019-2020 Annual Action Plan Amendment #3 approved by City Council on April 28, 2020 by Resolution 2020-206, and

WHEREAS, on June 9, 2020 HUD announced the second round of CARES Act Funding through which the City was awarded an additional \$3,360,962 in Emergency Solutions Grants – Coronavirus (ESG-CV2) and this funding was programmed by 2019-

2020 Annual Action Plan Amendment #4 approved by City Council on October 27, 2020 by Resolution 2020-448, and

WHEREAS, the City's current 2020-2025 Consolidated Plan identifies homelessness and housing as the highest priorities, and

WHEREAS, addressing homelessness in the midst of a pandemic takes a global approach with many community partners and the City departments coming together to create a holistic approach to keeping the most vulnerable in the community safe from COVID-19 and to continue the effort to assist these individuals on a path that brings them closer to a life off the streets and part of our local community, and

WHEREAS, the City has been working with its partners in allocating CARES Act resources to address this priority while responding to the COVID-19 threat to the community, and

WHEREAS, Stanislaus County Affordable Housing Corporation (STANCO) owns and operates an intensive short-term shelter located at 512 Vine Street, Modesto, CA. This two-story shelter has a livable square footage 2,239 and has been in operations since 2002, and

WHEREAS, Emergency shelters play an important role in providing shelter to homeless individuals in the community, and

WHEREAS, rehabilitation projects funded with ESG-CV will undergo an environmental review and cost reasonableness review and per the ESG-CV regulations, this shelter must remain in operation for a minimum of three years after the completion of the rehabilitation, and

WHEREAS, to assist in the in the longevity of the shelter infrastructure in the continuum for the response to COVID-19 the city staff is recommending funding for the rehabilitation of this existing shelter in an amount not to exceed \$186,000.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approving an Emergency Solutions Grant CARES Act (ESG-CV2) to Stanislaus County Affordable Housing Corporation for the renovation of the shelter located at 512 Vine Street, Modesto, CA 95351 in an amount not to exceed \$186,000 and \$20,000 in Activity Delivery to prevent, mitigate, and respond to the spread of COVID-19.


BE IT FURTHER RESOLVED; authorize the City Manager or his designee to execute any documents and/or agreements with such changes as determined by the City Attorney.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 8th day of March, 2022, by Councilmember Kenoyer, who moved its adoption, which motion being duly seconded by Councilmember Wright, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Escutia-Braaton, Kenoyer, Madrigal, Ricci, Wright, Zoslocki, Mayor Zwahlen

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST:   
DANA SANCHEZ, Interim City Clerk

(SEAL)

APPROVED AS TO FORM:

BY:   
JOSE M. SANCHEZ, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2022-115**

**RESOLUTION APPROVING THE “UPSTREAMING” OF THE REMAINING ERAP1 FUNDS BACK TO THE US TREASURY TO BE REALLOCATED TO THE STATE OF CALIFORNIA WITH A DESIGNATION FOR MODESTO RESIDENTS IN THE AMOUNT OF \$2,670,235.34 AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE ANY DOCUMENTS RELATED TO THE PURPOSE OF THIS RESOLUTION**

WHEREAS, on December 21, 2020, Congress passed the Consolidated Appropriations Act of 2021 and the Emergency Rental Assistance program made available \$25 billion nationwide to assist households that are unable to pay rent and utilities due to the COVID-19 pandemic, and

WHEREAS, the funds are provided directly to States, U.S. Territories, local governments, and Indian tribes and grantees will use the funds to provide assistance to eligible households through existing or newly created rental assistance programs, and

WHEREAS, the Stanislaus Emergency Rental Assistance Program opened to the public on Wednesday, February 24, 2021, and

WHEREAS, in August 2021, the Local Program portal was closed, and all new applicants were directed to the State of California COVID-19 Rent Relief Program (State Program), and

WHEREAS, the City has been in close contact and has held weekly check-in meetings with the State Program team since August 2021, and

WHEREAS, the City inquired with the State regarding the possibility of an undersubscription and the administration of these funds on the City’s behalf, and

WHEREAS, the Federal guidance was released November 15, 2021 with an immediate due date for the City to make a decision to “upstream” the remaining funds

back to the US Treasury to be reallocated to the State of California with the designation for City of Modesto residents, and

WHEREAS, Council approved the “upstreaming” of the remaining funds to the US Treasury to be reallocated to the State of California with a designation for Modesto residents in the amount of \$2,327,945.05 on January 11, 2022, and

WHEREAS, both City staff and Housing Authority staff has audited the program and expenses and determined that an additional \$342,290.29 is available from the original allocation, and needs to be “upstreamed” back to the Treasury, and

WHEREAS, the total amount the City will be “upstreaming back to the Treasury is \$2,670,235.34, and

WHEREAS, as of February 15, 2022, the State has received 2,940 applications requesting \$35,755,044 from City of Modesto residents. To date the State has processed 904 applications totaling \$7,084,165, and

WHEREAS, staff is requesting any Local Program funds to be immediately be redirected to the State Program to support the \$35 million in funding requests.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the “upstreaming” of the remaining funds back to the US Treasury to be reallocated to the State of California with a designation for Modesto residents in the amount of \$2,670,235.34.

BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to execute any documents related to the purpose of this resolution, in a form approved by the City Attorney.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 8th day of March, 2022, by Councilmember Kenoyer, who moved its adoption, which motion being duly seconded by Councilmember Wright, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Escutia-Braaton, Kenoyer, Madrigal, Ricci, Wright, Zoslocki, Mayor Zwahlen

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST:   
DANA SANCHEZ, Interim City Clerk

(SEAL)

APPROVED AS TO FORM:

BY:   
JOSE M. SANCHEZ, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2022-116**

**RESOLUTION AMENDING THE FISCAL YEAR 2021-2022 MULTI-YEAR FUND BUDGET, REDUCING THE ALLOCATION OF CONSOLIDATED APPROPRIATIONS ACT OF 2021 FUNDS FROM THE US DEPARTMENT OF TREASURY WITH APPROPRIATE REVENUE AND EXPENDITURE ALLOCATIONS AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO RETURN THE FEDERAL EMERGENCY RENTAL ASSISTANCE (ERA) #1 FUNDING RECEIVED ON JANUARY 25, 2021, IN AN AMOUNT OF \$2,670,235.34 TO THE U.S. TREASURY AND AUTHORIZING THE CITY MANAGER OR HIS DESIGNEE, TO TAKE THE NECESSARY STEPS TO IMPLEMENT THE PROVISIONS OF THIS RESOLUTION**

WHEREAS, the COVID-19 virus, better known as the novel Coronavirus, is a respiratory virus that has spread across the world and has created a global pandemic by devastating communities and the world economy, and

WHEREAS, to respond to this pandemic, Congress passed the Consolidated Appropriations Act of 2021 into law which provided \$25 billion to assist households that are unable to pay rent and utilities due to the COVID-19 pandemic, and

WHEREAS, the Consolidated Appropriations Act included direct allocations to California jurisdictions with populations of 200,000 or more, the City of Modesto Program has been directly allocated \$6,398,151 to establish an Emergency Rental Assistance Program (Federal ERA #1), and

WHEREAS, the City initially decided to administer the emergency rental assistance program locally, in partnership with Stanislaus County and the Housing Authority to distribute ERA Program funds to eligible members of the community, and work in partnership with existing housing support programs and resources, and

WHEREAS, Section 501(d) of the Act requires Treasury to recapture excess award funds not obligated by ERA #1 grantees may reallocate such funds beginning on September 30, 2021, and

WHEREAS, grantees may request to voluntarily reallocate some or all of their remaining ERA #1 award funds to another ERA #1 grantee, and

WHEREAS, the City of Modesto previously designated that an amount up to \$2,327,945 in award funds to be reallocated to California Department of Housing and Community Development with Reso 2022-006, and

WHEREAS, the City of Modesto will need to increase the amount to be reallocated to California Department of Housing and Community Development to be designated up to 2,670,235.34, and

WHEREAS, in order to reallocate to California Department of Housing and Community Development, the City must return the Federal ERA #1 funding received on January 25, 2021, in an amount of \$2,670,235.34 to the US Treasury

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto Resolution that it hereby amends the Fiscal Year 2021-2022 Multi-Year Fund Budget, reducing the allocation of Consolidated Appropriation Act of 2021 funds from the US Treasury and approve the reduction of these funds in multi-year operating projects with appropriate revenue and expenditure allocations.

BE IT FURTHER RESOLVED that the City Manager, or his designee, is authorized to return the Federal ERA #1 funding received on January 25, 2021, in an amount of \$2,670,235.34, to the U.S. Treasury.

BE IT FURTHER RESOLVED that authorizing the City Manager, or his designee, to carry out administrative actions or execute any agreements required for the City to carry out the purpose and intent 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 March, 2022, by Councilmember Kenoyer, who moved its adoption, which motion being duly seconded by Councilmember Wright, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Escutia-Braaton, Kenoyer, Madrigal, Ricci, Wright, Zoslocki, Mayor Zwahlen

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST:   
DANA SANCHEZ, Interim City Clerk

(SEAL)

APPROVED AS TO FORM:

BY:   
JOSE M. SANCHEZ, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2022-117**

**RESOLUTION APPROVING THE SUBDIVISION IMPROVEMENT AGREEMENT (SIA) FOR WOODGLEN VILLAGE 2 SUBDIVISION, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE SUBDIVISION IMPROVEMENT AGREEMENT WITH THE OWNER, MODESTO ROSELLE, LLC.**

WHEREAS, Modesto Roselle, LLC, a California Limited Liability Company (“SUBDIVIDER”), is in possession of a tract of land situated in the City of Modesto, County of Stanislaus, consisting of 9.2 acres, known as the WOODGLEN VILLAGE 2 (“SUBDIVISION”), in the Woodglen Specific Plan Area; and

WHEREAS, a tentative subdivision map of Woodglen Village 2 was approved by the City of Modesto Planning Commission on June 3, 2019, with conditions of approval as noted in Planning Commission Resolution Number 2019-20; and

WHEREAS, the public improvements required by the Planning Commission conditions of approval have not been completed; and

WHEREAS, as required by Section 66462 of the California Subdivision Map Act and Section 4-4.605 of the Modesto Municipal Code, the SUBDIVIDER has executed a Subdivision Improvement Agreement; and

WHEREAS, the 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 are in forms acceptable to the City Attorney and in the amounts required by the Public Works Director.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the Subdivision Improvement Agreement.

BE IT FURTHER RESOLVED, that the City Manager, or his designee, is authorized to execute the Subdivision Improvement Agreement, in a form approved by the City Attorney.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 8th day of March, 2022, by Councilmember Wright, who moved its adoption, which motion being duly seconded by Councilmember Kenoyer, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Escutia-Braaton, Kenoyer, Madrigal, Ricci, Wright, Mayor Zwahlen

NOES: Councilmembers: None

ABSENT: Councilmembers: Zoslocki

ATTEST:   
DANA SANCHEZ, Interim City Clerk

(SEAL)

APPROVED AS TO FORM:

BY:   
JOSE M. SANCHEZ, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2022-118**

**RESOLUTION APPROVING THE FINAL MAP FOR WOODGLEN VILLAGE 2  
SUBDIVISION, AND AUTHORIZING THE CITY CLERK TO CERTIFY THE  
FINAL MAP AND RECORD IT WITH THE STANISLAUS COUNTY  
RECORDER'S OFFICE**

WHEREAS, Modesto Roselle, LLC, a California Limited Liability Company (“SUBDIVIDER”), is in possession of a tract of land situated in the City of Modesto, County of Stanislaus, consisting of 9.2 acres, known as the WOODGLEN VILLAGE 2 (“SUBDIVISION”), in the Woodglen Specific Plan Area; and

WHEREAS, a tentative subdivision map of Woodglen Village 2 was approved by the City of Modesto Planning Commission on June 3, 2019, with conditions of approval as noted in Planning Commission Resolution Number 2019-20; and

WHEREAS, by previous action, the City Council approved a subdivision improvement agreement between the City and SUBDIVIDER; and

WHEREAS, following a public hearing and special election on July 6, 2021, by Resolution 2021-270, Council approved the annexation of SUBDIVISION into the City of Modesto Community Facilities District No. 2021-1 (Woodglen); and

WHEREAS, the Secretary of the Planning Commission of the City of Modesto and the City Engineer have certified that the final map of said tract substantially conforms to the approved tentative subdivision 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 the City Surveyor has determined that the map is technically correct.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the Final Map of the Woodglen Village 2 Subdivision; that the dedications for public streets and easements as shown thereon within the boundaries of said tract be accepted on behalf of the public for public use.

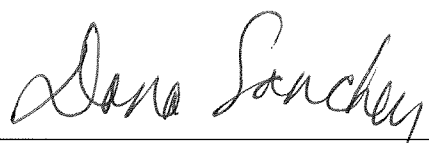
BE IT FURTHER RESOLVED that the City Clerk is hereby authorized to certify the map of said tract on behalf of the City of Modesto after the fees and deposits required by the Modesto Municipal Code in amounts determined by the Public Works Director have been paid.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 8th day of March, 2022, by Councilmember Wright, who moved its adoption, which motion being duly seconded by Councilmember Kenoyer, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Escutia-Braaton, Kenoyer, Madrigal, Ricci, Wright, Mayor Zwahlen

NOES: Councilmembers: None

ABSENT: Councilmembers: Zoslocki

ATTEST:   
DANA SANCHEZ, Interim City Clerk

(SEAL)

APPROVED AS TO FORM:

BY:   
JOSE M. SANCHEZ, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2022-119**

**RESOLUTION APPROVING THE SUBDIVISION IMPROVEMENT  
AGREEMENT FOR WOODGLEN VILLAGE 5 SUBDIVISION, AUTHORIZING  
THE CITY MANAGER, OR DESIGNEE, TO EXECUTE THE SUBDIVISION  
IMPROVEMENT AGREEMENT WITH THE OWNER, MODESTO ROSELLE,  
LLC**

WHEREAS, Modesto Roselle, LLC, a California Limited Liability Company (“SUBDIVIDER”), is in possession of a tract of land situated in the City of Modesto, County of Stanislaus, consisting of 8.3 acres, known as the WOODGLEN VILLAGE 5 (“SUBDIVISION”), in the Woodglen Specific Plan Area; and

WHEREAS, a tentative subdivision map of Woodglen Village 5 was approved by the City of Modesto Planning Commission on June 3, 2019, with conditions of approval as noted in Planning Commission Resolution Number 2019-20; and

WHEREAS, the public improvements required by the Planning Commission conditions of approval have not been completed; and

WHEREAS, as required by Section 66462 of the California Subdivision Map Act and Section 4-4.605 of the Modesto Municipal Code, the SUBDIVIDER has executed a Subdivision Improvement Agreement; and

WHEREAS, the 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 are in forms acceptable to the City Attorney and in the amounts required by the City Engineer.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the subdivision improvement agreement for Woodglen Village 5 Subdivision.


BE IT FURTHER RESOLVED, that the City Manager, or designee, is authorized to execute the Subdivision Agreement, in a form approved by the City Attorney.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 8th day of March, 2022, by Councilmember Wright, who moved its adoption, which motion being duly seconded by Councilmember Escutia-Braaton, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Escutia-Braaton, Kenoyer, Madrigal, Ricci, Wright, Mayor Zwahlen

NOES: Councilmembers: None

ABSENT: Councilmembers: Zoslocki

ATTEST:   
DANA SANCHEZ, Interim City Clerk

(SEAL)

APPROVED AS TO FORM:

BY:   
JOSE M. SANCHEZ, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2022-120**

**RESOLUTION APPROVING THE FINAL MAP FOR WOODGLEN VILLAGE 5  
SUBDIVISION, AND AUTHORIZING THE CITY CLERK TO CERTIFY THE  
FINAL MAP AND RECORD IT WITH THE STANISLAUS COUNTY  
RECORDER'S OFFICE**

WHEREAS, Modesto Roselle, LLC, a California Limited Liability Company (“SUBDIVIDER”), is in possession of a tract of land situated in the City of Modesto, County of Stanislaus, consisting of 8.3 acres, known as the WOODGLEN VILLAGE 5 (“SUBDIVISION”), in the Woodglen Specific Plan Area, and

WHEREAS, a tentative subdivision map of Woodglen Village 5 was approved by the City of Modesto Planning Commission on June 3, 2019, with conditions of approval as noted in Planning Commission Resolution Number 2019-20, and

WHEREAS, by previous action, the City Council approved a subdivision improvement agreement between the City and SUBDIVIDER, and

WHEREAS, following a public hearing and special election on July 6, 2021, by Resolution 2021-270, Council approved the annexation of SUBDIVISION into the City of Modesto Community Facilities District No. 2021-1 (Woodglen), and

WHEREAS, the Secretary of the Planning Commission of the City of Modesto and the City Engineer have certified that the final map of said tract substantially conforms to the approved tentative subdivision 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 the City Surveyor has determined that the map is technically correct.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the Final Map of the Woodglen Village 5 Subdivision; that the dedications for public streets and easements as shown thereon within the boundaries of said tract be accepted on behalf of the public for public use.

BE IT FURTHER RESOLVED that the City Clerk is hereby authorized to certify the map of said tract on behalf of the City of Modesto after the fees and deposits required by the Modesto Municipal Code in amounts determined by the City Engineer have been paid.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 8th day of March, 2022, by Councilmember Wright, who moved its adoption, which motion being duly seconded by Councilmember Escutia-Braaton, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Escutia-Braaton, Kenoyer, Madrigal, Ricci, Wright, Mayor Zwahlen

NOES: Councilmembers: None

ABSENT: Councilmembers: Zoslocki

ATTEST:   
DANA SANCHEZ, Interim City Clerk

(SEAL)

APPROVED AS TO FORM:

BY:   
JOSE M. SANCHEZ, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2022-121**

**RESOLUTION ADOPTING THE 2022 STATE AND FEDERAL LEGISLATIVE PRIORITIES AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO CARRY OUT THE NECESSARY STEPS TO HELP THE CITY ACHIEVE THE PRIORITIES IDENTIFIED IN THE PLATFORM**

WHEREAS, the State and Federal Governments allocate several million dollars for municipalities for programs and support with policy adoption on an annual basis, and

WHEREAS, best practices show that in order to receive funding or favorable legislation, municipalities need to proactively engage with the legislature by taking positions, providing testimony, monitoring legislation, and employing strategic advocacy to help increase the leverage of the organization to receive funds and support and

WHEREAS, to help the City of Modesto become more active in the creation of legislation and to increase its leverage to receive more state or federal funds, the adoption of legislative priorities communicates the cost and project details to the appropriate entity within the State and Federal government, and

WHEREAS, A Legislative Platform includes the priorities for each department and helps make clear how legislation can either support or hinder progress of a local initiative, and

WHEREAS, in light of the increasing local obligations with issues such as COVID-19 (Coronavirus), homelessness, pensions, housing development, and increasing expectations from residents, Cities are actively seeking additional support from the State and Federal government to meet these obligations, and

WHEREAS, A Legislative Platform is a tool for the City of Modesto to protect and promote the City's interests on priority programs, legislative proposals, and other

regulatory issues by providing a framework that summarizes the City’s position on policy issues, without precluding the consideration of additional legislative and budget issues that arise during a legislative session, and

WHEREAS, The City Council previously adopted legislative priorities over the course of the last 3 years, and through those priorities that were identified, the City took a position and secured funding through the following bills:

2021 – Successful Initiatives

*Appropriations Requests*

**1. County Island Infrastructure**

The California Legislature approved of \$5 million for the City of Modesto for County island infrastructure and was directed to the Governor’s Desk. On Tuesday evening, the Governor signed the budget which effectively approved the \$5 million for Modesto.

Staff is working with the County to coordinate next steps and identify which area or areas to address.

**2. Camp2Home**

Camp2Home is an incredible initiative that meets individuals experiencing homelessness where they are and helps them achieve employment and housing. Congressman Harder approved to sponsor this initiative as an appropriation request in the amount of \$500k. This funding continues to be held in the federal legislative process.

**3. River Trunk Project**

Senator Padilla announced his approved appropriations requests and from an initial list of over 1,000 requests – and the City of Modesto’s request for \$4 million to support the River Trunk project was approved. This funding continues to be held in the federal legislative process.

**4. State Route 132**

In coordination with the County and StanCOG, Congressman Harder approved to sponsor a request of \$12 million for Phase 2 design of State Route 132. On July 1, 2021 the House passed the INVEST in America Act – which included the \$12m for SR 132 so this appropriation has officially passed the House, but this allocation continues to be held in the Senate.

*Sponsored Legislation*

- **AB 1476 – Beard Brook Park**

In coordination with Assembly Member Gray, AB 1476 was approved by the Legislature and signed by the Governor. The bill authorizes the City to sell Beard Brook Park. State legislation was required to sell this property because state grant funds were used for improvements to the park, and the legislation allows the City to obtain a critical piece of land within Tuolumne River Regional Park.

WHEREAS, the State of California is anticipating a significant budget surplus, which means that members of the legislature may have discretionary authority over district projects, and

WHEREAS, this list of legislative priorities will help ensure that the City is positioned to educate the legislature of the priorities and needs across the City of Modesto to help ensure the City receives additional funds and legislation that favors Modesto and the Stanislaus County region, and

WHEREAS, the development of this list of legislative priorities included coordination with city departments to compile the projects and meetings with individual councilmembers to arrive at key priorities that can be supplemented by legislation, and

WHEREAS, several of the key priorities within the Platform include: mental health, homelessness, park improvements, alternative transportation, water resources, and infrastructure, and

WHEREAS, the broader legislative strategy for the City will require the adoption of this list of priorities on an annual basis, engaging legislators, taking positions on legislation, and by providing testimony related to the City's priorities at state or federal committee hearings, and

WHEREAS, following each legislative session staff will evaluate the successes and overall activity in order to provide this information to the Council, and


NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby adopts the 2022 State and Federal Legislative Priorities, and authorizes the City Manager, or his designee, to carry out the necessary steps to help the city achieve the priorities identified in the platform.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 8th day of March, 2022, by Councilmember Kenoyer, who moved its adoption, which motion being duly seconded by Councilmember Wright, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Escutia-Braaton, Kenoyer, Madrigal, Ricci, Wright, Zoslocki, Mayor Zwahlen

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST:   
DANA SANCHEZ, Interim City Clerk

(SEAL)

APPROVED AS TO FORM:

BY:   
JOSE M. SANCHEZ, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2022-122**

**RESOLUTION APPROVING A FIRST AMENDMENT WITH BADGER METER, INC. FOR THE PURCHASE OF BADGER WATER METERS, AUTOMATED METER READERS, AND RELATED PARTS FROM AN ANNUAL ESTIMATED AMOUNT OF \$600,880 TO A NEW ESTIMATED ANNUAL AMOUNT OF \$1,500,880 AND A TOTAL REVISED AMOUNT NOT TO EXCEED FROM \$3,059,022 TO \$7,504,400 OVER FIVE (5) YEARS, AND AUTHORIZING THE DIRECTOR OF FINANCE, OR HER DESIGNEE, TO EXECUTE THE AMENDMENT; AND AUTHORIZING THE DIRECTOR OF FINANCE, OR HER DESIGNEE, THE ABILITY TO ADD PARTS BASED ON THE DEPARTMENT'S NEEDS, ENSURING THE TOTAL COST DOES NOT EXCEED THE AUTHORIZED AMOUNT**

WHEREAS, the City is in the process of installing water meters and automated meter reading equipment on all service connections within the City's service area, and have approximately 800 meters left to install, and

WHEREAS, State Assembly Bill 2572 requires that urban water suppliers install water meters on all service connections by the year 2025, and

WHEREAS, Badger Meter is the sole provider of Badger brand water meters, automated reader meters, and related parts. Maintaining the current agreement allows for seamless operations, including billing of water meter reads, and

WHEREAS, on May 4, 2021, by Resolution No. 2021-167, Council approved a five-year purchase agreement with Badger Meter for water meters, automated meter readers, and related parts, and

WHEREAS, over the past nine months, staff has transitioned from installation to maintenance of the installed Badger Water meters and automated reader, and

WHEREAS, staff has seen an increase of failing registers which are at the end of their lifespan and it is estimated that there will be 1,000 failing registers monthly throughout the remainder of the agreement, and

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approve a first amendment with Badger Meter, Inc. for the purchase of Badger water meters, automated meter readers, and related parts from an annual estimated amount of \$600,880 to a new estimated annual amount of \$1,500,880 and a total revised amount not to exceed from \$3,059,022 to \$7,504,400 over five (5) years.

BE IT FURTHER RESOLVED, that the Director of Finance, or her designee, is authorized to execute the amendment.

BE IT FURTHER RESOLVED, that the Director of Finance, or her designee, is authorized the ability to add parts based on the department's needs, ensuring the total cost does not exceed the authorized amount.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 8th day of March, 2022, by Councilmember Ricci, who moved its adoption, which motion being duly seconded by Councilmember Wright, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Escutia-Braaton, Kenoyer, Madrigal, Ricci, Wright, Mayor Zwahlen

NOES: Councilmembers: None

ABSENT: Councilmembers: Zoslocki

ATTEST:   
DANA SANCHEZ, Interim City Clerk

(SEAL)

APPROVED AS TO FORM:

BY:   
JOSE M. SANCHEZ, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2022-123**

**RESOLUTION APPROVING THE COMPETITIVE BIDDING PROCESS FROM SOURCEWELL (FORMERLY NATIONAL JOINT POWERS ALLIANCE) WITH KENWORTH TRUCK COMPANY UNDER AUTHORIZED DEALER WITH NORCAL KENWORTH-BAY AREA, SAN LEANDRO, CA, FOR A KENWORTH CAB AND CHASSIS TRUCK FOR A TOTAL AMOUNT NOT TO EXCEED \$148,510; AND AUTHORIZING THE PURCHASING MANAGER, OR HER DESIGNEE, TO ISSUE THE PURCHASE ORDER**

WHEREAS, City of Modesto Streets Division currently has one 2016 Road Saver Slurry Truck. This truck was purchased in 2016 to start a new street preservation program in which it distributes Type II Slurry to add longevity to the life of the road (approximately 5-7 years); and

WHEREAS, the Streets Division established a preventative maintenance program which included the use of this slurry seal truck; and

WHEREAS, in April 2020, Sourcewell issued Request for Proposals (RFP) #060920-KTC for Class 4-8 Chassis with Related Equipment, Accessories & Service, on the Sourcewell website, the Onvia website, PublicPurchase.com website, DJC, The State Media Company, Deseret News, USA Today and the New York State Contract Reporter; and

WHEREAS, on June 9, 2020, proposals were formally opened at the Sourcewell offices; and

WHEREAS, twenty-five (25) proposals were received and based on the Sourcewell Proposal Review Committee and criteria outlined in the RFP#060920, nine (9) contracts were awarded for Class 4-8 Chassis with Related Equipment, Accessories & Service; and

WHEREAS, Sourcewell's analysts streamline the procurement process by developing RFP's for national competitive solicitations that meet or exceed local requirements; and

WHEREAS, Modesto Municipal Code Section 8-3.203 generally requires all purchases that meet or exceed \$50,000 for material, equipment or contractual services to be formally bid. However, exceptions to the formal bidding process are granted in MMC 8-3.204(d) "Where the Purchasing Manager, in her discretion, determines that a process other than the formal bid procedure set for 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, MMC 8-3.202(h) encourages the Purchasing Manager to join with the State of California or other units of government in cooperative purchasing plans when the best cost savings interest of the City would be served.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the competitive bidding process from Sourcewell (formerly National Joint Powers Alliance) with Kenworth Truck Company under authorized dealer with NorCal Kenworth-Bay Area, San Leandro, CA, for a Kenworth Cab and Chassis Truck for a total amount not to exceed \$148,510.

BE IT FURTHER RESOLVED, that the Purchasing Manager, or her designee, is hereby authorized to execute the purchase order.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 8th day of March, 2022, by Councilmember Kenoyer, who moved its adoption, which motion being duly seconded by Councilmember Wright, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Escutia-Braaton, Kenoyer, Madrigal, Ricci, Wright, Zoslocki, Mayor Zwahlen

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST:   
DANA SANCHEZ, Interim City Clerk

(SEAL)

APPROVED AS TO FORM:

BY:   
JOSE M. SANCHEZ, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2022-124**

**RESOLUTION APPROVING THE COMPETITIVE BIDDING PROCESS FROM BUYBOARD COOPERATIVE PURCHASING WITH COOPER EQUIPMENT, COMPANY, SAN ANTONIO, TX, FOR A SLURRY TANK FOR A TOTAL AMOUNT NOT TO EXCEED \$279,034; AND AUTHORIZING THE PURCHASING MANAGER, OR HER DESIGNEE, TO ISSUE THE PURCHASE ORDER**

WHEREAS, City of Modesto Streets Division currently has one 2016 Road Saver Slurry Truck. This truck was purchased in 2016 to start a new street preservation program in which it distributes Type II Slurry to add longevity to the life of the road (approximately 5-7 years); and

WHEREAS, the Streets Division established a preventative maintenance program which included the use of this slurry seal truck; and

WHEREAS, in January 2019, BuyBoard Cooperative Agreement issued Request for Proposals (RFP) #597-19 for Construction, Road and Bridge, Ditching, Trenching, Utility & Other Equipment; and

WHEREAS, on April 11, 2019, proposals were formally opened at the BuyBoard offices; and

WHEREAS, sixty-five (65) proposals were received and based on the BuyBoard Proposal Review process and criteria outlines in the RFP#597-19, fifty-eight (58) contracts were awarded for Construction, Road and Bridge, Ditching, Trenching, Utility & Other Equipment; and

WHEREAS, the BuyBoard program streamlines the procurement process by developing RFP's for State competitive solicitations that meet or exceed local requirements; and

WHEREAS, Modesto Municipal Code Section 8-3.203 generally requires all purchases that meet or exceed \$50,000 for material, equipment or contractual services to be formally bid. However, exceptions to the formal bidding process are granted in MMC 8-3.204(d) “Where the Purchasing Manager, in her discretion, determines that a process other than the formal bid procedure set for 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, MMC 8-3.202(h) encourages the Purchasing Manager to join with the State of California or other units of government in cooperative purchasing plans when the best cost savings interest of the City would be served.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the competitive bidding process from BuyBoard Cooperative Purchasing with Cooper Equipment, Company, San Antonio, TX, for a Slurry Tank for a total amount not to exceed \$279,034.

BE IT FURTHER RESOLVED, that the Purchasing Manager, or her designee, is hereby authorized to execute the purchase order.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 8th day of March, 2022, by Councilmember Kenoyer, who moved its adoption, which motion being duly seconded by Councilmember Wright, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Escutia-Braaton, Kenoyer, Madrigal, Ricci, Wright, Zoslocki, Mayor Zwahlen


NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST:   
DANA SANCHEZ, Interim City Clerk

(SEAL)

APPROVED AS TO FORM:

BY:   
JOSE M. SANCHEZ, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2022-125**

**RESOLUTION REISSUING ALL BIDS FOR REQUEST FOR BID (RFB) NO. 1819-49RB FOR SEVEN (7) STAKE SIDE DUMP TRUCKS AND RFB 19-20-83 FOR ONE-TON UTILITY TRUCK AND AUTHORIZING STAFF TO REISSUE THE RFB'S AT A FUTURE DATE OR IDENTIFY A COOPERATIVE AGREEMENT WHEN APPROVED BY THE CITY MANAGER**

WHEREAS, the Public Works Forestry and Parks, Recreation and Neighborhood Operations require a stake side dump truck to handle daily operations for the disposal of tree maintenance relate debris and garbage; and

WHEREAS, on May 21, 2019 the Purchasing Division issued Request for Bids (RFB) No. 1819-49RB for the purchase of nine (9) Stake Side Dump Trucks; and

WHEREAS, on June 11, 2019, bids were formally opened in the City Clerk's office; and

WHEREAS, when the Purchase Order was completed and forwarded to the vendor, the vehicles were delivered but only two of the vehicles complied with the specification defined in the bid; and

WHEREAS, the vendor confirmed they would need to rescind their bid for the remaining vehicles and staff is recommending reissuance of the RFB1819-49RB for the remaining seven (7) vehicles; and

WHEREAS, the Utilities Department, Jennings Treatment Plant Division require this vehicle to haul equipment and parts for daily operations; and

WHEREAS, on August 8, 2020, the Purchasing Division issued RFB 1920-83 for One-Ton 17,500 GVWR Truck; and

WHEREAS, due to a delay in the City's approval process and finalizing the request to issue the order to the vendor, the vendor was unable to fulfill the order and cancelled their bid; and

WHEREAS, in accordance with Modesto Municipal Code Sec 8-3.203(e), Formal Bid Procedures, the Council shall have the authority to accept or reject any or all bids. The reissuing of all bids for RFB 1819-49RB for Seven (7) SRW One-Ton Trucks and RFB 19-20-83 for One-Ton Utility Truck conforms to Modesto Municipal Code 8-3.203, subsection (e).

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby reissues the bids received for RFB 1819-49RB for Seven (7) SRW One-Ton Trucks and RFB 19-20-83 for One-Ton Utility Truck.

BE IT FURTHER RESOLVED, that the City Manager, or his designee is hereby authorizing staff to re-evaluate if a rebid or a cooperative agreement is appropriate for this replacement.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 8th day of March, 2022, by Councilmember Kenoyer, who moved its adoption, which motion being duly seconded by Councilmember Wright, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Escutia-Braaton, Kenoyer, Madrigal, Ricci, Wright, Zoslocki, Mayor Zwahlen

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST:   
DANA SANCHEZ, Interim City Clerk

(SEAL)

APPROVED AS TO FORM:

BY:   
JOSE M. SANCHEZ, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2022-126**

**RESOLUTION APPROVING THE AUDITED FINANCIAL STATEMENTS AND VARIOUS AUDIT REPORTS FOR FISCAL YEAR 2020-2021 AUDITED BY EXTERNAL AUDITORS HUDSON HENDERSON & COMPANY, INC. FOR THE CITY'S ANNUAL COMPREHENSIVE FINANCIAL REPORT, TWELVE (12) COMMUNITY FACILITIES DISTRICTS AND VARIOUS JOINT POWERS AGENCIES**

WHEREAS, pursuant to Section 1306 of the Charter of the City of Modesto, the City Council shall employ an independent certified public accountant who, at least annually, shall audit the books and records of the City of Modesto, and submit a final audit and report to the City Council as soon as practicable after the end of the fiscal year and

WHEREAS, the accounting firm of Hudson Henderson & Company, Inc., has completed their audit of the City's financial statements for the fiscal year ended June 30, 2021, and has provided its opinion on these financial statements based on that audit, and

WHEREAS, the independent auditors also audited financial statements of twelve Community Facilities Districts and various Joint Powers Agencies, as required by their respective enabling legislations, and for which the City of Modesto serves as the financial administrator, and

WHEREAS, by the Council of the City of Modesto it hereby accepts the Fiscal Year 2020-2021 annual audit reports for the City of Modesto, Community Facilities Districts, and various Joint Powers Agencies, as listed in **Exhibit A**, which is incorporated by reference herein.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the Fiscal Year 2020-2021 annual audit reports for the City of

Modesto and other Joint Power Agencies, as listed in **Exhibit A**, which is incorporated by reference herein.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 8th day of March, 2022, by Councilmember Kenoyer, who moved its adoption, which motion being duly seconded by Councilmember Wright, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Escutia-Braaton, Kenoyer, Madrigal, Ricci, Wright, Mayor Zwahlen

NOES: Councilmembers: None

ABSENT: Councilmembers: Zoslocki

ATTEST:   
DANA SANCHEZ, Interim City Clerk

(SEAL)

APPROVED AS TO FORM:

BY:   
JOSE M. SANCHEZ, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2022-126**

**RESOLUTION APPROVING THE FISCAL YEAR 2020-2021 ANNUAL AUDIT  
REPORTS**

**EXHIBIT A**

**City of Modesto:**

1. Annual Comprehensive Financial Report FY 2020-2021
2. GANN Limit Report FY 2020-2021
3. Community Facilities District Number 1998-2 (Carver-Bangs/Pelandale-Snyder)
4. Community Facilities District Number 2000-2 (Coffee-Claratina)
5. Community Facilities District Number 1998-1 (Enterprise Business Park)
6. Community Facilities District Number 2003-1 (Fairview Village)
7. Community Facilities District Number 2007-2 (Kiernan Business Park West)
8. Community Facilities District Number 1997-1 (North Beyer Park)
9. Community Facilities District Number 2002-1 (Northpointe)
10. Community Facilities District Number 2004-1 (Village One #2)
11. Community Facilities District Number 1996-1 (Village One)
12. Community Facilities District Number 2016-2 (Kiernan Business Park East #2)
13. Community Facilities District Number 2007-1 (North Beyer #2)
14. Community Facilities District Number 2016-2 (The Vintage)

**Other Agencies:**

15. Abandoned Vehicle Abatement (AVA)
16. Modesto-Ceres Fire Protection Agency Financial Statements
17. Tuolumne River Regional Park (TRRP)
18. Transportation Development Agency (TDA)
19. Transportation Development Agency (TDA) National Transit Database (NTD)  
Reporting Forms

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2022-127**

**RESOLUTION APPROVING THE FISCAL YEAR 2020-2021 AUDITOR'S  
REPORT ON COMPLIANCE OF THE MEASURE L: LOCAL ROADS FIRST  
TRANSPORTATION FUNDING MEASURE**

WHEREAS, in November of 2016 the voters of Stanislaus County approved the county wide, 25-year, half-cent sales tax increase for the Local Roads First Transportation Funding Measure, known as Measure L. As part of the safe guards built into the expenditure plan an annual independent audit and annual reporting must be completed, and

WHEREAS, on December 12, 2017, per Resolution 2017-505, Council approved the Measure L master funding agreement with the Stanislaus Council of Governments (StanCOG) which requires an annual independent audit of all of recipients Measure L accounts which audit shall be conducted at recipient's sole cost and expense, and

WHEREAS, for the audit related to FY 2020-2021 the City received information from StanCOG that they would be continuing to conduct the annual audit and that it would be at the expense of StanCOG as part of the 1% allowable administrative expenses within the Measure L ordinance, and

WHEREAS, the accounting firm of Hudson Henderson & Company, Inc., was selected by StanCOG to conduct the Fiscal Year 2020-2021 audit report, and

WHEREAS, as part of the City's Fiscal Year 2020-2021 Measure L Program Audit, the accounting firm verified the revenues and expenditures, fund balances, and that the Maintenance of Effort requirement was met, and

WHEREAS, Hudson Henderson & Company, Inc. issued the final independent auditor's report of the Measure L program for the fiscal year ending in June 30, 2021. In

addition, the firm issued a letter to the Policy Board of Stanislaus Council of Governments with the final report. Both the final report and the letter to StanCOG did not have any findings for the year ending June 30, 2021.

NOW, THEREFORE, BE IT RESOLVED, by the Council of the City of Modesto that it hereby approves the Fiscal Year 2020-2021 Auditor's Report on Compliance of the Measure L: Local Roads First Transportation Funding Measure.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 8th day of March, 2022, by Councilmember Wright, who moved its adoption, which motion being duly seconded by Councilmember Madrigal, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Escutia-Braaton, Kenoyer, Madrigal, Ricci, Wright, Mayor Zwahlen

NOES: Councilmembers: None

ABSENT: Councilmembers: Zoslocki

ATTEST:   
DANA SANCHEZ, Interim City Clerk

(SEAL)

APPROVED AS TO FORM:

BY:   
JOSE M. SANCHEZ, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2022-128**

**RESOLUTION APPROVING THE AUDITORS' REPORTS AND SCHEDULE OF PASSENGER FACILITY CHARGE REVENUES AND EXPENDITURES FOR FISCAL YEAR ENDED JUNE 30, 2021, PREPARED BY EXTERNAL AUDITORS HUDSON HENDERSON & COMPANY, INC.**

WHEREAS, pursuant to Federal Aviation Administration (FAA) guidelines part 158.67 requires each Airport/Public Agency to conduct an annual audit of their Passenger Facility Charge (PFC) program, and

WHEREAS, the accounting firm of Hudson Henderson & Company, Inc. has completed its Auditors' Report and Schedule of Passenger Facility Charge Revenues and Expenditures, and

WHEREAS, the independent audit is applicable to the City's Passenger Facility Charge program at the Modesto City-County Airport for the year ending June 30, 2021.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the Independent Auditors' Reports and Schedule of Passenger Facility Charge Revenues and Expenditures for Fiscal Year Ended June 30, 2021 for the City of Modesto.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 8th day of March, 2022, by Councilmember Wright, who moved its adoption, which motion being duly seconded by Councilmember Escutia-Braaton, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Escutia-Braaton, Kenoyer, Madrigal, Ricci, Wright, Mayor Zwahlen

NOES: Councilmembers: None

ABSENT: Councilmembers: Zoslocki

ATTEST:   
DANA SANCHEZ, Interim City Clerk

(SEAL)

APPROVED AS TO FORM:

BY:   
JOSE M. SANCHEZ, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2022-129**

**RESOLUTION APPROVING THE FISCAL YEAR 2020-2021 SINGLE AUDIT  
REPORT FOR THE CITY OF MODESTO FROM EXTERNAL AUDITORS  
HUDSON HENDERSON & COMPANY, INC.**

WHEREAS, the City of Modesto Single Audit reports are federally mandated by the provisions of the Federal Single Audit Act Amendments of 1996 and Title 2 U.S. Code of Federal Regulations (CFR) Part 200, Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards (Uniform Guidance), which requires an audit to be conducted for any non-Federal entity that expends \$750,000 or more a year in Federal awards, and

WHEREAS, this audit was conducted by the City's external auditors, Hudson Henderson & Company, Inc., and the main objectives were to ensure a fair presentation of the basic financial statements and the schedule of expenditures of Federal awards, and to also audit the City's internal controls and compliance with legal requirements, with special emphasis on internal controls and legal requirements involving the administration of federal awards expended during the fiscal year, and

WHEREAS, as part of the City's Fiscal Year 2020-2021 Single Audit report, one audit findings was reported for grant funding received from the Emergency Rental Assistance Program (ERAP) for incorrect calculation of one invoice charged to the program, and

WHEREAS, as part of the corrective action plan, City staff will work with all vendors and sub-recipients to ensure that separate invoices are submitted to process payments with multiple funding sources, and additional review will be completed by

program manager, fiscal review and Community Development management before invoices are processed for payment.

NOW, THEREFORE, BE IT RESOLVED, by the Council of the City of Modesto that it hereby approves the Fiscal Year 2020-2021 Single Audit report for the City of Modesto.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 8th day of March, 2022, by Councilmember Wright, who moved its adoption, which motion being duly seconded by Councilmember Escutia-Braaton, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Escutia-Braaton, Kenoyer, Madrigal, Ricci, Wright, Mayor Zwahlen

NOES: Councilmembers: None

ABSENT: Councilmembers: Zoslocki

ATTEST:

  
DANA SANCHEZ, Interim City Clerk

(SEAL)

APPROVED AS TO FORM:

BY:

  
JOSE M. SANCHEZ, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2022-130**

**RESOLUTION APPROVING THE SUBMISSION OF THE CITY'S LOCAL  
TRANSPORTATION FUNDS FISCAL YEAR 2021-2022 CLAIM FOR NON-  
MOTORIZED AND OTHER PURPOSES (BIKE LANES AND PEDESTRIAN  
PATHWAYS AND LOCAL STREETS AND ROADS INTEREST) IN THE  
AMOUNT OF \$503,707 TO THE STANISLAUS COUNCIL OF GOVERNMENTS  
(STANCOG)**

WHEREAS, the Stanislaus Council of Governments (StanCOG) has informed the City that Local Transportation Funds (LTF) funds have been apportioned by StanCOG for allocation to the City, and

WHEREAS, this Claim for Non-motorized Purposes is the formal request by the City to StanCOG to release its apportionment of LTF funds for non-motorized and other purposes during the current fiscal year, and

WHEREAS, LTF funds provide the required local match for Federal funds received for the purpose of non-motorized and other projects (bicycle and pedestrian pathways and local streets and roads interest), and

WHEREAS, two percent (2%) of all LTF funds available to StanCOG are designated to be used for bicycle and pedestrian projects, and

WHEREAS, on November 30, 2021, the City was notified by StanCOG that in addition to the non-motorized funds, the City will receive \$238,275 from Local Streets and Roads interest, and

WHEREAS, the City has prepared its LTF Claim for Fiscal Year 2021-22 pursuant to Articles 4 and 8 of Chapter 4 of Part 11, Division 10 of the California Public Utilities Code, and

WHEREAS, Council action authorizing submission of the claim is required by the

rules and regulations governing the Transportation Development Act Funds, including StanCOG's approved Transit Cost Sharing Procedures, 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 submission of the City's Local Transportation Funds Fiscal Year 2021-22 Claim for Non-motorized Purposes (bike lanes and pedestrian pathways and local streets and roads interest) in the amount of \$503,707 to the Stanislaus Council of Governments (StanCOG).

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 8th day of March, 2022, by Councilmember Kenoyer, who moved its adoption, which motion being duly seconded by Councilmember Wright, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Escutia-Braaton, Kenoyer, Madrigal, Ricci, Wright, Zoslocki, Mayor Zwahlen

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST:   
DANA SANCHEZ, Interim City Clerk

(SEAL)

APPROVED AS TO FORM:

BY:   
JOSE M. SANCHEZ, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2022-131**

**RESOLUTION AMENDING THE FISCAL YEAR 2021-2022 CAPITAL IMPROVEMENT PROGRAM BUDGET TO FUND PROJECT #100813, 101383, AND 101384 (VIRGINIA CORRIDOR PHASE VII, OAKDALE ROAD IMPROVEMENTS, AND SYLVAN/STANDIFORD PHB'S) IN AN AMOUNT NOT TO EXCEED \$503,707 IN TRANSFERS, REVENUE, AND TO BUDGET EXPENDITURES TO FUND THE PROJECTS, AND AUTHORIZING THE CITY MANAGER OR HIS DESIGNEE, TO IMPLEMENT THE PROVISIONS OF THIS RESOLUTION**

WHEREAS, the Stanislaus Council of Governments (StanCOG) has informed the City that Local Transportation Funds (LTF) funds have been apportioned by StanCOG for allocation to the City, and

WHEREAS, this Claim for Non-motorized Purposes is the formal request by the City to StanCOG to release its apportionment of LTF funds for non-motorized and other purposes during the current fiscal year, and

WHEREAS, LTF funds provide the required local match for Federal funds received for the purpose of non-motorized and other projects (bicycle and pedestrian pathways and local streets and roads interest), and

WHEREAS, two percent (2%) of all LTF funds available to StanCOG are designated to be used for bicycle and pedestrian projects, and

WHEREAS, on November 30, 2021, the City was notified by StanCOG that in addition to the non-motorized funds, the City will receive \$238,275 from Local Streets and Roads interest, and

WHEREAS, the City has prepared its LTF Claim for Fiscal Year 2021-22 pursuant to Articles 4 and 8 of Chapter 4 of Part 11, Division 10 of the California Public Utilities Code, and

WHEREAS, Council action authorizing submission of the claim is required by the rules and regulations governing the Transportation Development Act Funds, including StanCOG's approved Transit Cost Sharing Procedures, before any LTF funding can be released to the City, and

WHEREAS, \$503,707 is available to be budgeted into the Fiscal Year 2021-2022 Capital Improvement Program Budget, and

WHEREAS, staff identified three projects to receive funding this fiscal year: #100813 – Virginia Corridor Phase VII, #101383 – Oakdale Road Improvements, and #101384 – Sylvan/Standiford PHB's, and

WHEREAS, the Fiscal Year 2021-2022 Capital Improvement Budget must be amended to increase Project 100813 – Virginia Corridor Phase VII, 101383 – Oakdale Road Improvements, and 101384 – Sylvan/Standiford PHB's in a total amount of \$503,707 to establish transfers, recognize revenue, and increase expenditures.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the amendments of the Fiscal Year 2021-2022 Capital Improvement Program Budget to fund project 100813, 101383, and 101384 (Virginia Corridor Phase VII, Oakdale Road Improvements, and Sylvan/Standiford PHB's) in an amount not to exceed \$503,707 in transfers, revenue and to budget expenditures to fund the projects.

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 8th day of March, 2022, by Councilmember Kenoyer, who moved its adoption, which motion being duly seconded by Councilmember Wright, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Escutia-Braaton, Kenoyer, Madrigal, Ricci, Wright, Zoslocki, Mayor Zwahlen

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST:   
DANA SANCHEZ, Interim City Clerk

(SEAL)

APPROVED AS TO FORM:

BY:   
JOSE M. SANCHEZ, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2022-132**

**RESOLUTION APPROVING THE ADOPTION OF THE PUBLIC AGENCIES  
POST-EMPLOYMENT BENEFITS TRUST ADMINISTERED BY PUBLIC  
AGENCY RETIREMENT SERVICES (PARS) AND APPOINTING THE CITY  
MANAGER OR HIS DESIGNEE AS PLAN ADMINISTRATOR AND  
AUTHORIZING THE CITY MANAGER OR HIS DESIGNEE TO EXECUTE  
THE DOCUMENTS TO IMPLEMENT THE PROGRAM**

WHEREAS, PARS has made available the PARS Public Agencies Post-Employment Benefits Trust (the “Program”) for the purpose of pre-funding pension obligations and/or OPEB obligations; and

WHEREAS, the City of Modesto (“City”) is eligible to participate in the Program, a tax-exempt trust performing an essential governmental function within the meaning of Section 115 of the Internal Revenue Code, as amended, and the Regulations issued there under, and is a tax-exempt trust under the relevant statutory provisions of the State of California; and

WHEREAS, the City’s adoption and operation of the Program has no effect on any current or former employee’s entitlement to post-employment benefits; and

WHEREAS, the terms and conditions of post-employment benefit entitlement, if any, are governed by contracts separate from and independent of the Program; and

WHEREAS, the City’s funding of the Program does not, and is not intended to, create any new vested right to any benefit nor strengthen any existing vested right; and

WHEREAS, the City reserves the right to make contributions, if any, to the Program.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby adopts the PARS Public Agencies Post-Employment Benefits Trust,

effective March 8, 2022; and the City Council hereby appoints the City Manager or his designee as City's Plan Administrator for the program; and the City's Plan Administrator is hereby authorized to execute the PARS legal and administrative documents on behalf of the City and to take whatever additional actions are necessary to maintain the City's participation in the Program and to maintain compliance of any relevant regulation issued or as may be issued; therefore, authorizing him/her to take whatever additional actions are required to administer the City's Program.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 8th day of March, 2022, by Councilmember Kenoyer, who moved its adoption, which motion being duly seconded by Councilmember Wright, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Escutia-Braaton, Kenoyer, Madrigal, Ricci, Wright, Zoslocki, Mayor Zwahlen

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST:   
DANA SANCHEZ, Interim City Clerk

(SEAL)

APPROVED AS TO FORM:

BY:   
JOSE M. SANCHEZ, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2022-133**

**RESOLUTION APPROVING THE AWARD OF BID AND AGREEMENT FOR BACKFLOW PREVENTION TESTING SERVICES TO DAN ELY BACKFLOW SERVICES, TURLOCK, CA FOR A TWO (2) YEAR AGREEMENT WITH THREE (3) ONE-YEAR EXTENSION OPTIONS, FOR AN ESTIMATED ANNUAL AMOUNT OF \$25,000 AND A TOTAL AMOUNT NOT TO EXCEED \$125,000 OVER FIVE YEARS, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE AGREEMENT**

WHEREAS, the State of California Health and Safety Code requires annual testing of backflow prevention assemblies owned and operated by the City; and

WHEREAS, pursuant to Modesto Municipal Code 11-1.113 and California Health and Safety Codes 116800-116820, all backflow prevention assemblies are to be tested annually at the owner/water (City's) account holder's expense; and

WHEREAS, in 2016, an informal bid for Backflow Prevention Testing Services was issued and it was estimated services would not exceed \$10,000 annually; and

WHEREAS, in 2018, a purchasing agreement for five years was executed under the City Manager's authority in an amount not to exceed \$49,000 over five years; and

WHEREAS, on April 27, 2021, by Reso. 2021-160, Council approved an amendment to the Agreement to increase the amount of funding by \$13,000 from \$49,000 to a new total of \$62,000 for the last year of the five-year agreement; and

WHEREAS, on October 12, 2021, by Reso. 2021-409, Council approved the Second Amendment increasing the agreement amount by \$3,600 to a new total of \$65,600 and extended the term of the agreement to April 30, 2022, to allow enough time for the Request for Bids process; and

WHEREAS, the City Manager authorized the Purchasing Manager to issue a formal Request for Bids (RFB) for Backflow Prevention Testing Services on November 5, 2021; and

WHEREAS, seventeen (17) vendors downloaded the RFB; and

WHEREAS, bids were formally due to the City Clerk's office on December 28, 2021 and one bid was received; and

WHEREAS, staff evaluated the bid and recommends the award of bid to Dan Ely Backflow Services, Turlock, CA; and

WHEREAS, Modesto Municipal Code Section 8-3.203 generally requires all purchases, which meet or exceed \$50,000 for material, equipment or contractual services to follow formal bid procedures; an award of bid and agreement for Backflow Prevention Testing Services for Parks, Recreation & Neighborhoods department use to Dan Ely Backflow Services, Turlock, CA, conforms to the Modesto Municipal Code because the City complied with the formal bid procedures and Dan Ely Backflow Services was the lowest responsive and responsible bidder.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the Award of Bid and Agreement for Backflow Prevention Testing Services to Dan Ely Backflow Services, Turlock, CA for a two-year Agreement with three (3) one-year extension options, for an estimated annual amount of \$25,000 and a total amount not to exceed \$125,000 over five years.

BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to execute the Agreement in a form approved by the City Attorney.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 8th day of March, 2022, by Councilmember Kenoyer, who moved its adoption, which motion being duly seconded by Councilmember Wright, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Escutia-Braaton, Kenoyer, Madrigal, Ricci, Wright, Zoslocki, Mayor Zwahlen

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST:   
DANA SANCHEZ, Interim City Clerk

(SEAL)

APPROVED AS TO FORM:

BY:   
JOSE M. SANCHEZ, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2022-134**

**RESOLUTION APPROVING THE AWARD OF BID AND AGREEMENT FOR DISCING AND FLAIL MOWING SERVICES TO ELITE MAINTENANCE & TREE SERVICE, INC., CLOVIS, CA FOR A TWO (2) YEAR AGREEMENT WITH THREE (3) ONE-YEAR EXTENSION OPTIONS, FOR AN ANNUAL ESTIMATED COST OF \$151,335 AND A TOTAL AMOUNT NOT TO EXCEED \$756,675 OVER FIVE YEARS, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE AGREEMENT**

WHEREAS, discing and flail mowing services are needed on open fields to control the overgrowth of weeds and grasses; and

WHEREAS, on March 3, 2015, by Resolution 2015-63, Council approved the award of bid for discing and flail mowing services to Scoto Farming for a five-year agreement not to exceed \$210,000; and

WHEREAS, on April 28, 2020, by Resolution 2020-199, Council approved an amendment for an extension to the Agreement to extend the term from March 2, 2020 to September 2, 2020; and

WHEREAS, on April 13, 2021, by Resolution 2021-137, Council approved another amendment for an extension to the Agreement from September 2, 2020 to October 31, 2021; and

WHEREAS, the City Manager authorized the Purchasing Manager to issue a formal Request for Bids (RFB) for Discing and Flail Mowing services on June 11, 2021; and

WHEREAS, fifteen (15) vendors downloaded the RFB; and

WHEREAS, bids were formally due to the City Clerk's office on July 20, 2021 and one bid was received; and

WHEREAS, staff evaluated the bid and determined that the original Scope of Services should be amended to make the specifications broader for a more competitive bidding process; and

WHEREAS, on November 2, 2021, by Reso. 2012-431, Council approved rejecting all bids received for RFB No. 2021-46 for Discing and Flail Mowing services and to issue the RFB at a later date; and

WHEREAS, on November 2, 2021, by Reso. 2021-432, Council approved the third amendment increasing funding for the current agreement for Discing and Flail Mowing services by \$5,390 from \$210,000 to a new total of \$215,390, and extending the term of the agreement from October 31, 2021, to April 30, 2022, to allow time to re-issue RFB 2021-46; and

WHEREAS, the City Manager authorized the Purchasing Manager to re-issue a formal RFB for Discing and Flail Mowing Services on November 5, 2021; and

WHEREAS, eighteen (18) vendors downloaded the RFB; and

WHEREAS, bids were formally due to the City Clerk's office on December 21, 2021 and three bids were received; and

WHEREAS, staff evaluated the bids and cost abstract; and

WHEREAS, staff recommends the award of bid to Elite Maintenance & Tree Services, Inc., Clovis, CA; and

WHEREAS, Modesto Municipal Code Section 8-3.203 generally requires all purchases, which meet or exceed \$50,000 for material, equipment or contractual services to follow formal bid procedures; an award of bid and agreement for Discing and Flail Mowing Services for Parks, Recreation & Neighborhoods department use to Elite

Maintenance & Tree Services, Inc., Clovis, CA, conforms to the Modesto Municipal Code because the City complied with the formal bid procedures and Elite Maintenance & Tree Services was the lowest responsive and responsible bidder.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the award of bid and agreement for Discing and Flail Mowing Services to Elite Maintenance & Tree Service, Inc., Clovis, CA for a two (2) year Agreement with three (3) one-year extension options, for an annual estimated cost of \$151,335 and a total amount not to exceed \$756,675 over five years.

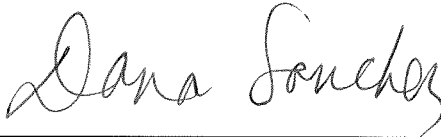
BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to execute the Agreement in a form approved by the City Attorney.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 8th day of March, 2022, by Councilmember Kenoyer, who moved its adoption, which motion being duly seconded by Councilmember Wright, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Escutia-Braaton, Kenoyer, Madrigal, Ricci, Wright, Zoslocki, Mayor Zwahlen

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST:   
DANA SANCHEZ, Interim City Clerk

(SEAL)

APPROVED AS TO FORM:

BY:   
JOSE M. SANCHEZ, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2022-135**

**RESOLUTION APPROVING THE FIRST AMENDMENT TO THE  
MEMORANDUM OF UNDERSTANDING (MOU) BETWEEN THE LA LOMA  
NEIGHBORHOOD ASSOCIATION AND THE CITY OF MODESTO FOR THE  
NATIVE PLANT GARDEN ON ENCINA AVENUE EXTENDING THE TERM  
OF THE MOU FROM MARCH 28, 2022 TO MARCH 28, 2027 AND  
AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE  
THE MOU**

WHEREAS, in 2016, the La Loma Neighborhood Association (LLNA), and the City of Modesto Parks and Recreation Department began discussing improvements on a parcel of City-owned land north of Encina Avenue between Conejo Avenue and Phoenix Avenue; and

WHEREAS, on March 28, 2017, by Reso. 2017-103, the City entered into a five-year Memorandum of Understanding (MOU) with the LLNA to install a Water Conservation / Native Plant Garden on Encina Avenue; and

WHEREAS, the LLNA was responsible for design, construction, and maintenance of the garden; and

WHEREAS, the City was responsible for water service and minimal maintenance such as tree trimming, green waste and trash pickup; and

WHEREAS, the MOU is in its final year and both parties intend to exercise the one five-year extension through March 28, 2027; and

WHEREAS, all obligations of the LLNA will remain the same; and

WHEREAS, the City's obligations will increase with the addition of assisting with garden maintenance, twice per year, using (2) maintenance staff for eight hours each; and

WHEREAS, the current costs of City services for the Native Garden are approximately \$4,100 annually and are budgeted within the General Fund and Water Fund; and

WHEREAS, the additional assistance with garden maintenance will be an additional \$1,413 per year and will be budgeted within the General Fund.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the First Amendment to the Memorandum of Understanding between the La Loma Neighborhood Association and the City of Modesto for the Native Plant Garden on Encina Avenue and extending the term of the MOU from March 28, 2022 to March 28, 2027.and the terms and conditions contained therein.

BE IT FURTHER RESOLVED, that the City Manager, or his designee, is hereby authorized to execute the First Amendment to Memorandum of Understanding,in a form approved by the City Attorney.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 8th day of March, 2022, by Councilmember Madrigal, who moved its adoption, which motion being duly seconded by Councilmember Ricci, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Escutia-Braaton, Kenoyer, Madrigal, Ricci, Wright, Mayor Zwahlen

NOES: Councilmembers: None

ABSENT: Councilmembers: Zoslocki

ATTEST:   
DANA SANCHEZ, Interim City Clerk

(SEAL)

APPROVED AS TO FORM:

BY:   
JOSE M. SANCHEZ, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2022-136**

**RESOLUTION REJECTING ALL BIDS FOR THE UPGRADE TRAFFIC SIGNALS 2017 PROJECT AND AUTHORIZING STAFF TO RE-ADVERTISE THE PROJECT FOR BIDS AT A FUTURE DATE**

WHEREAS, the Upgrade Traffic Signals 2017 Project will remove all the existing traffic signal standards, conduit, wiring and traffic signals equipment at the intersections of Needham Avenue/11<sup>th</sup> Street, Paradise Road/H Street, and 1<sup>st</sup> Street/H Street; and

WHEREAS, this project will also relocate the traffic signal cabinet to a more accessible area, upgrade the cabinet to current standards, install new conduit and signal interconnect cable, and upgrade pedestrian push buttons to be Americans with Disabilities Act (ADA) compliant, and install Emergency Vehicle Pre-emption (EVP) and new video detection cameras at these intersections; and

WHEREAS, on December 6, 2021 this project was advertised for bids having only a base bid; and

WHEREAS, the bids were publicly opened on January 11, 2022, pursuant to City Charter Section 1307, and seven bids were received; and

WHEREAS, the lowest bid received was above the engineer's estimate, by approximately 55.6 percent due to inflation and current construction pricing; and

WHEREAS, staff was anticipating slightly higher bids as the project incorporated elements of our Traffic Signal System Master Plan; and

WHEREAS, Public Works Department staff determined that it would be in the best interest of the City to reject all bids and re-advertise the project at a later date, to allow staff to re-evaluate the construction costs and scope of work to identify any

clarifications to the bid package and the necessary adjustments to the engineer's estimate and project budget.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby rejects all bids received for the Upgrade Traffic Signals 2017 Project.

BE IT FURTHER RESOLVED that staff is hereby authorized to re-advertise the project.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 8th day of March, 2022, by Councilmember Kenoyer, who moved its adoption, which motion being duly seconded by Councilmember Wright, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Escutia-Braaton, Kenoyer, Madrigal, Ricci, Wright, Zoslocki, Mayor Zwahlen

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST:   
DANA SANCHEZ, Interim City Clerk

(SEAL)

APPROVED AS TO FORM:

BY:   
JOSE M. SANCHEZ, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2022-137**

**RESOLUTION APPROVING A FIRST AMENDMENT TO THE AGREEMENT WITH WEST YOST, SACRAMENTO, CA, FOR DESIGN SERVICES FOR DEL RIO REPLACEMENT WELL 271, IN THE AMOUNT OF \$42,700, FOR THE IDENTIFIED SCOPE OF SERVICES, FOR A REVISED TOTAL COST NOT TO EXCEED \$898,390, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE AMENDMENT**

WHEREAS, existing Well 271 located in the Del Rio service area was originally acquired as part of the Del Este Water System purchased by the City in 1995, and

WHEREAS, on September 14, 2010, by Resolution No. 2010-409, Well 271 was identified for replacement in the 2010 Water System Engineer's Report to meet the needs of the existing Del Rio service area, and

WHEREAS, on May 9, 2017, by Resolution No. 2017-187, Council approved an agreement with West Yost for the final design, bid period and well equipping support services for the Del Rio Replacement Well 271 Project, and

WHEREAS, during the final design of Del Rio Replacement Well 271 staff was informed by the Department of Water Resources that well number 271 could not be re-used, therefore, the project became Del Rio Well 70 (Replacing Well 271), and

WHEREAS, on May 19, 2021, through a water quality lab analysis report, the City was informed that the 1,2-Dibromo-3-chloropropane (DBCP) contaminant was present at levels exceeding the maximum contaminant level (MCL), per state regulation at Well 70, and

WHEREAS, West Yost is the Engineer-of-Record for the Project and has been an integral part in the development of the Del Rio Well 70 since 2015, and

WHEREAS, in order to utilize the well and to introduce additional groundwater into the Del Rio service area, a suitable treatment system must be designed and installed at the Well 70 Site, and

WHEREAS, a first amendment to the agreement is necessary to cover the additional cost for the expanded scope of work, City staff is recommending a first amendment to the agreement with West Yost in the amount of \$42,700, to allow for the evaluation of potential mitigation options and to identify a preferred treatment alternative.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves a first amendment to the current agreement with West Yost, of Sacramento, CA, for Design Services for the Del Rio Replacement Well 271 Project in an amount not to exceed \$42,700, for a new total amount not to exceed \$898,390.

BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to execute the amendment, in a form approved by the City Attorney.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 8th day of March, 2022, by Councilmember Kenoyer, who moved its adoption, which motion being duly seconded by Councilmember Wright, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Escutia-Braaton, Kenoyer, Madrigal, Ricci, Wright, Zoslocki, Mayor Zwahlen

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST:   
DANA SANCHEZ, Interim City Clerk

(SEAL)

APPROVED AS TO FORM:

BY:   
JOSE M. SANCHEZ, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2022-138**

**RESOLUTION APPROVING THE AWARD OF BID AND AGREEMENT WITH WESTERN OILFIELDS SUPPLY COMPANY, DBA RAIN FOR RENT, BAKERSFIELD, CA FOR THE ANNUAL RENTAL OF THREE DV-400C PUMPS, AND RELATED EQUIPMENT FOR A ONE-YEAR AGREEMENT WITH FOUR ONE-YEAR EXTENSION OPTIONS, FOR AN ESTIMATED ANNUAL AMOUNT OF \$60,545, AND A TOTAL AMOUNT NOT TO EXCEED \$334,549 OVER FIVE YEARS, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE AGREEMENT**

WHEREAS, in 2006, staff discovered erosion along the bank of the Tuolumne River which exposed and compromised portions of the City's gravity trunk sewer, and

WHEREAS, in September 2007, the City completed a repair of approximately 300 feet of the river bank, and

WHEREAS, the City coordinated with West Yost Associates, an engineering firm, to analyze existing and potential risks as well as develop solutions, and

WHEREAS, in January 2012, West Yost Associates completed a draft of the Cannery Segregation Line (CSL) and River Trunk Diversion Plan (Plan) which included a temporary bypass pumping plan in the event of a CSL failure, and

WHEREAS, the Plan includes the implementation of three large pumps used in transporting flows through the bypass, and

WHEREAS, On June 2, 2015, by Resolution No. 2015-180, Council approved the rental of bypass pumps from Rain for Rent in the amount of \$100,000, and

WHEREAS, On June 8, 2021, by Resolution No. 2021-212, Council approved the award of bid for the standby rental and/or delivery of by-pass pumps DV-400C to Rain for Rent, Bakersfield, CA for an amount not to exceed \$60,545, and

WHEREAS, on October 26, 2021, the Purchasing Division issued RFB 2021-67, Stand-By Pumps DV400C or Equivalent, on Planet Bids, and

WHEREAS, on November 16, 2021, bids were formally opened by the City Clerk and broadcast via Microsoft Teams Livestream, and

WHEREAS, based on providing the lowest responsive and responsible bid, City staff recommends the award of bid and agreement to Western Oilfields Supply Company dba Rain for Rent, Bakersfield, CA, and

WHEREAS, the Modesto Municipal Code Section 8-3.203 generally requires all purchases, which meet or exceed \$50,000 for material, equipment or contractual services to be formally bid. An award of bid and agreement for the rental of three DV-400c pumps from Western Oilfields Supply Company, dba Rain for Rent, Bakersfield, CA, conforms to the Modesto Municipal Code because the City complied with the formal bid procedures and Western Oilfields Supply Company, dba Rain for Rent, was the lowest responsive and responsible bidder.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the award of bid and agreement with Western Oilfields Supply Company, dba Rain for Rent, Bakersfield, CA for the annual rental of three DV-400c pumps, and related equipment for a one-year agreement with four one-year extension options, for an estimated annual amount of \$60,545, and a total amount not to exceed \$334,549 over five years.

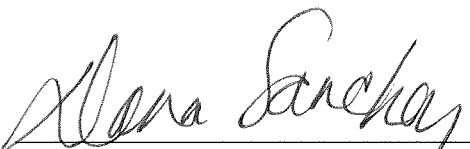
BE IT FURTHER RESOLVED that the City Manager, or his designee, is authorized to execute the agreement in a form approved by the City Attorney.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 8th day of March, 2022, by Councilmember Kenoyer, who moved its adoption, which motion being duly seconded by Councilmember Wright, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Escutia-Braaton, Kenoyer, Madrigal, Ricci, Wright, Zoslocki, Mayor Zwahlen

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST:   
DANA SANCHEZ, Interim City Clerk

(SEAL)

APPROVED AS TO FORM:

BY:   
JOSE M. SANCHEZ, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2022-139**

**RESOLUTION APPROVING A CAPITAL FACILITIES FEES EXEMPTION AGREEMENT, IN THE AMOUNT OF \$55,809.60, WITH STANISLAUS EQUITY PARTNERS CDC FOR THE SEVEN UNIT PROJECT LOCATED AT 112 JAMES STREET, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE AGREEMENT**

WHEREAS, in 1987, the City of Modesto established a Capital Facilities Fees (CFF) Program to mitigate the impacts of new development as outlined in §6600 of the California Government Code, and

WHEREAS, the current CFF Policies and Procedures state, with respect to very low- and low-income housing exemptions, the total number of housing exemptions granted are not to exceed two percent (2%) of the cumulative total CFF program housing units, and

WHEREAS, the CFF Policies and Procedures also allows for exemptions to foster the development of residential units affordable to very low-income households, as well as certain qualifying residential units affordable to low-income households, and

WHEREAS, since the inception of the CFF Program, a total of 15,423 residential building permits have been issued of which 763 were granted CFF exemptions, and

WHEREAS, when the CFF Program was established, it was assumed the total number of residential units programmed to be constructed at build-out would be 129,163, and

WHEREAS, when considering the total number of units to be constructed at build-out, only 0.59% of the programmed units have received exemptions, and

WHEREAS, on January 27, 2022, Stanislaus Equity Partners CDC submitted a CFF Exemption Application for its project located at 112 James Street in Modesto, and

WHEREAS, staff reviewed Stanislaus Equity Partners CDC's CFF Exemption Application and found it complies with the CFF Policies & Procedures as all seven units will be affordable to very low-income households, and

WHEREAS, the project will provide seven affordable multi-family units (one one-bedroom, four two-bedroom and two three-bedroom) for persons who are homeless or at risk of homelessness, and

WHEREAS, this exemption request was presented to the Citizens' Housing & Community Development Committee on February 10, 2022 and was unanimously approved, and

WHEREAS, this item was publicly noticed as a Public Hearing in the Modesto Bee on February 21, 2022.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the CFF Exemption Agreement between the City of Modesto and Stanislaus Equity Partners CDC for the exemption of \$55,809.60 in Capital Facilities Fees for the project located at 112 James Street, Modesto.

BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to execute the Capital Facilities Fees (CFF) Agreement, in a form approved by the City attorney.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 8th day of March, 2022, by Councilmember Wright, who moved its adoption, which motion being duly seconded by Councilmember Madrigal, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Escutia-Braaton, Kenoyer, Madrigal, Ricci, Wright, Mayor Zwahlen

NOES: Councilmembers: None

ABSENT: Councilmembers: Zoslocki

ATTEST:   
DANA SANCHEZ, Interim City Clerk

(SEAL)

APPROVED AS TO FORM:

BY:   
JOSE M. SANCHEZ, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2022-140**

**RESOLUTION APPROVING THE FINAL COUNCIL DISTRICT MAP AS  
RECOMMENDED BY THE CITIZENS' DISTRICTING COMMISSION**

WHEREAS, like many cities throughout California, Modesto utilizes a district-based system of electing Council Members; and

WHEREAS, after each decennial U.S. census, cities with district-based systems must “redistrict” to adjust the boundaries of the Council Members’ Districts using the new census data; and

WHEREAS, redistricting determines which neighborhoods and communities are grouped together into a district for purposes of electing a Council Member; and

WHEREAS, as part of the redistricting process the City is required to form a Citizens’ Districting Commission (“Commission”) whose function shall be to recommend to the Council the districts from which Council Members shall be elected; and

WHEREAS, on September 28, 2021, by Resolution No. 2021-389 the Council appointed nine members to the Commission; and

WHEREAS, the Charter also required that “one or more, as necessary, independent consultants experienced and competent in the skills necessary for the districting work shall be utilized to assist the Commission in developing any of the Districting Plans;” and

WHEREAS, on September 7, 2021, by Resolution No. 2021-336, Council approved a professional services agreement with Redistricting Partners for Demographic and Census Mapping Consultant services for the City’s Redistricting process; and

WHEREAS, the Commission complied with the Charter, the FAIR MAPS Act and all legal requirements for public hearings and community outreach, including taking the steps necessary to encourage residents, including those in underrepresented communities and non-English speaking communities, to participate in the redistricting public review process; and

WHEREAS, the Commission held three Community Outreach Workshops, one Pre-Draft Map Public Hearing and four Draft Map Public Hearings during the timeframe of December 2, 2021, through February 3, 2022; and

WHEREAS, on January 8, 2022, the Commission authorized the release of three Draft Maps for community review and input, these maps were prepared by the demographer consultant taking into consideration population and census data, and the input received through the public hearing process; and

WHEREAS, on January 19, 22, and 26, 2022, the Commission discussed Draft Maps, including an additional citizen drawn map; and

WHEREAS, on February 2, 2022, the Commission held a Public Hearing to adopt a Recommended Council District Map and voted unanimously to recommend Draft Map B3 to Council as the Recommended Council District Map; and

WHEREAS, in the creation of Draft Map B3, the Commission focused on using major streets and neighborhoods to divide district boundaries; and

WHEREAS, changes to the current district boundaries include Rose Avenue as the major border running north-south through the eastside of town and becomes the border between Districts 3, 4, 5, and 6, creating a four corners alignment. La Loma Avenue and Scenic Drive are used for the borders between Districts 2, 3, and 4, which

keeps the La Loma neighborhood together, and the neighborhoods north of Scenic Drive unified. Briggsmore Avenue extends from Lakewood Avenue to Claus Road, creating a border between Districts 4 and 6. Lastly, the Airport Neighborhood in District 4 will move to District 2 and is connected by a small portion of Yosemite Avenue, Empire Avenue and Tenaya Drive. The Commission recommended that the Airport Neighborhood be included in District 2 because they believed that the communities of interest were more closely aligned with those of District 2. With the inclusion of the Airport Neighborhood in Draft Map B3, District 2's Hispanic CVAP increases from 56.4% to 58.2%; and

WHEREAS, on March 1, 2022, Council held a public hearing that complied with Charter Section 501(b)(6)(a), which requires the Council to hold at least one (1) public hearing on the "Recommended Districting Plan of the Commission" before any adoption of a "Final Districting Plan;" and

WHEREAS, the Council received a report and presentation from staff and the City's demographer consultant on the redistricting process and had the opportunity to provide comments regarding the Recommended Council District Map adjusting district boundaries.

NOW, THEREFORE, BE IT RESOLVED, that the Council of the City of Modesto hereby approves the Final Council District Map, **attached** hereto as **Exhibit A**, as recommended by the Citizens' Districting Commission.

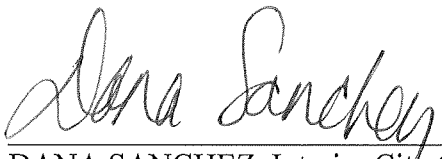
BE IT FURTHER RESOLVED, that the City Clerk, or her designee is hereby directed to provide a certified copy of this Resolution to the Stanislaus County Register of Voters.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 8th day of March, 2022, by Councilmember Wright, who moved its adoption, which motion being duly seconded by Councilmember Ricci, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Escutia-Braaton, Kenoyer, Madrigal, Ricci, Wright, Zoslocki, Mayor Zwahlen

NOES: Councilmembers: None

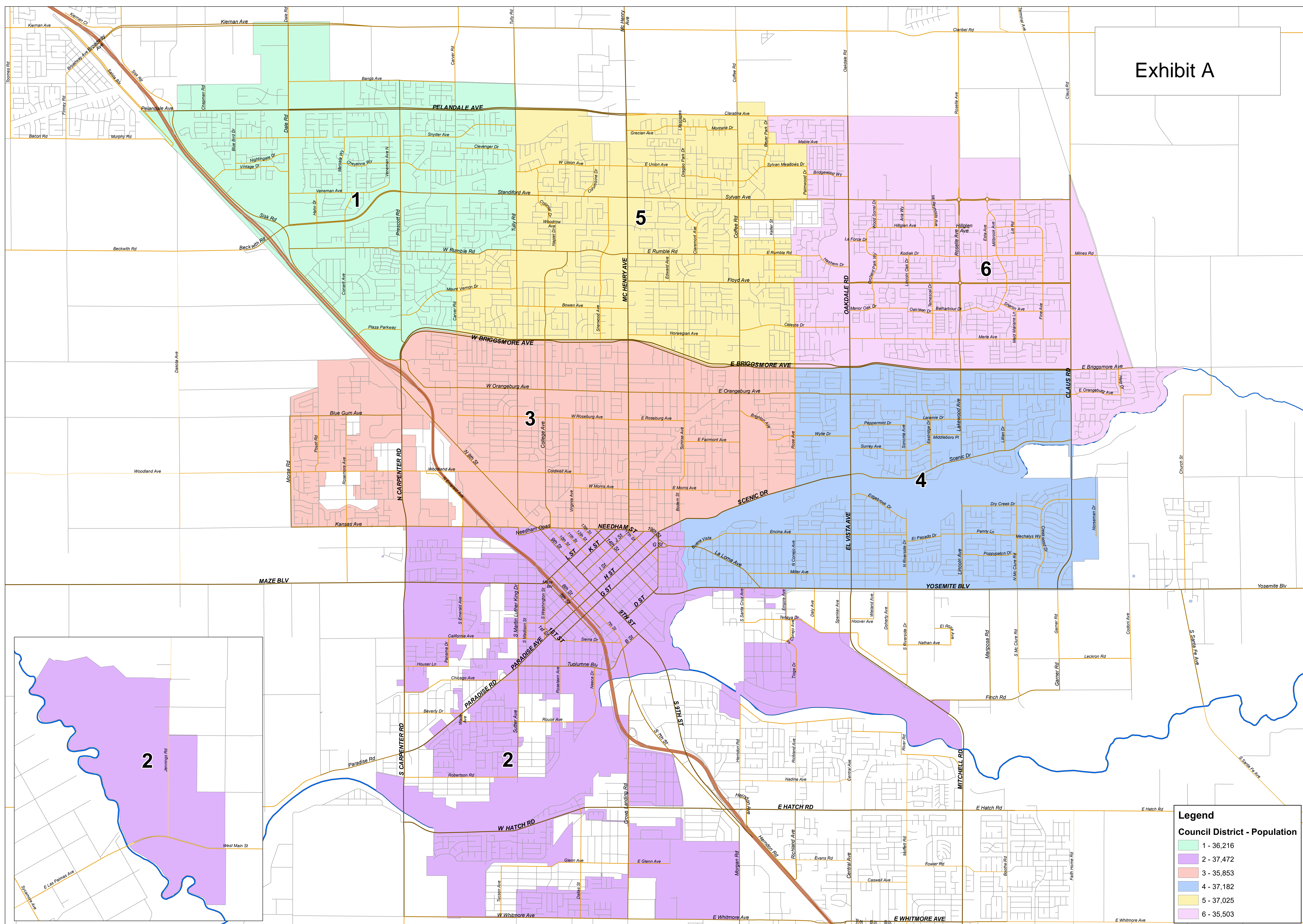
ABSENT: Councilmembers: None

ATTEST:   
DANA SANCHEZ, Interim City Clerk

(SEAL)

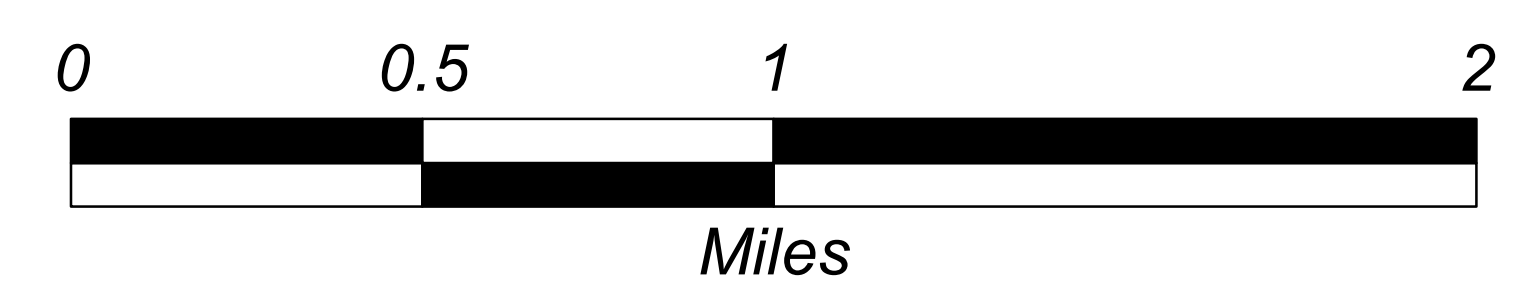
APPROVED AS TO FORM:

BY:   
JOSE M. SANCHEZ, City Attorney



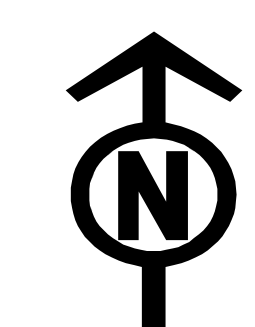
**Legend**  
**Council District - Population**

1 - 36,216
2 - 37,472
3 - 35,853
4 - 37,182
5 - 37,025
6 - 35,503



Date: 3/4/2022

# City of Modesto Council District Map



**MODESTO CITY COUNCIL  
RESOLUTION NO. 2022-141**

**RESOLUTION ACCEPTING THE FUNDS FROM THE CALIFORNIA WATER AND WASTEWATER ARREARAGE PAYMENT PROGRAM (CWWAPP) FOR DRINKING WATER ARREARAGE IN THE AMOUNT NOT TO EXCEED \$2,716,416; AND AUTHORIZING THE SUBMISSION OF AN APPLICATION TO THE CWWAPP FOR THE WASTEWATER ARREARAGE AMOUNT ESTIMATED AT \$4,215,784**

WHEREAS, on March 4, 2020, Governor Newsom proclaimed a state of emergency due to the COVID-19 pandemic, issued Executive Order N-33-20 to require individuals to stay at home except as needed to maintain continuity of critical operations, issued Executive Order N-42-20 prohibiting discontinuation of water service indefinitely, and issued Executive Order N-60-20 that created a risk-based approach to reopening the economy; and

WHEREAS, the stay-at-home order and risk-based reopening framework were rescinded on June 11, 2021, by Executive Order N-07-21 and many provisions of other Executive Orders were phased out by Executive Order N-08-21 including establishing an end date for the shutoff moratorium on September 30, 2021; and

WHEREAS, there have been economic impacts as a result of the COVID-19 pandemic and associated public health measures, including leaving many Californians unable to pay their water and wastewater bills due to lack of reliable and consistent employment. Community utility system continue to be negatively affected by the impacts and requirements of the Executive Orders making assistance critically important; and

WHEREAS, the State Water Resources Control Board (SWRCB) conducted a state-wide survey of water systems to determine the total amount of drinking water debt accumulated in the state between March 4, 2020, and June 15, 2021; and

WHEREAS, the Finance Department, Utilities Department and Budget Division complied the required data to submit this survey for Modesto on September, 10, 2021; and

WHEREAS, the City received the water arrearage funding in the amount of \$2,716,416 on January 28, 2022 and the Utility Billing team is working diligently to post these credits no later than March 28, 2022; and

WHEREAS, as part of receiving this funding, the City must comply with the program requirements defined below which include:

- 1) Waive customer late fees for any arrearage accrued during the COVID-19 pandemic bill relief period
- 2) Notify customers of the amount credited to their account
- 3) Offer to enroll customers with remaining debt into a payment plan
- 4) Allow customers 30 days to enroll in the payment plan; and

WHEREAS, the City's priority is to apply the credit received from this funding and actively communicate with the customers about establishing a payment plan for the remaining delinquent balance due to the City; and

WHEREAS, SWRCB is conducting another survey to determine state-wide wastewater debt and make remaining program funds available to Community utilities carrying wastewater debt; and

WHEREAS, the funding is available for debt accrued from March 4, 2020, through June 15, 2021 similar to the water arrearage program and the wastewater arrearage amount for the City is estimated at \$4,215,784.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby accept the funds from the California Water and Wastewater Arrearage Payment Program (CWWAPP) for drinking water arrearage in an amount not to exceed \$2,716,416.

BE IT FURTHER RESOLVED by the Council of the City of Modesto that it hereby authorize the submission of an application to the CWWAPP for the wastewater arrearage amount estimated at \$4,215,784.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 8th day of March, 2022, by Councilmember Wright, who moved its adoption, which motion being duly seconded by Councilmember Escutia-Braaton, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Escutia-Braaton, Kenoyer, Madrigal, Ricci, Wright, Mayor Zwahlen

NOES: Councilmembers: None

ABSENT: Councilmembers: Zoslocki

ATTEST:   
DANA SANCHEZ, Interim City Clerk

(SEAL)

APPROVED AS TO FORM:

BY:   
JOSE M. SANCHEZ, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2022-142**

**RESOLUTION APPROVING THE APPOINTMENT OF JOSE VAZQUEZ AS  
THE 2022 PLANNING COMMISSION REPRESENTATIVE TO THE CITIZENS  
HOUSING AND COMMUNITY DEVELOPMENT COMMITTEE (CH&CDC)  
WITH A TERM EXPIRATION OF DECEMBER 31, 2022**

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

WHEREAS, the Planning Commission appoints an individual from their membership to serve as the Planning Commission representative to the Board of Zoning Adjustment (BZA) and the Citizens Housing and Community Development Committee (CH&CDC) each year; and

WHEREAS, on February 28, 2022, the Planning Commission recommended Jose Vazquez as its representative to the Citizens Housing and Community Development Committee; and

WHEREAS, Mr. Vazquez is qualified and willing to be appointed as the Planning Commission representative to the CH&CDC for 2022.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Modesto that Jose Vazquez is hereby appointed as the 2022 Planning Commission representative to the Citizens Housing and Community Development Committee, with a term expiration of December 31, 2022.

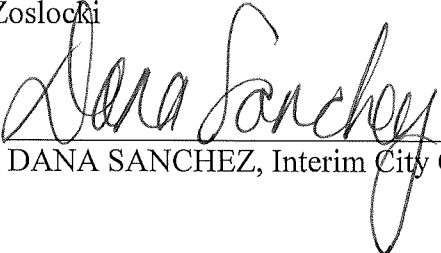
BE IT FURTHER RESOLVED, that the City Clerk is hereby directed to transmit a copy of this resolution to the appointed member of the Citizens Housing and Community Development, and the Secretary thereof.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 5th day of April, 2022, by Councilmember Escutia-Braaton, who moved its adoption, which motion being duly seconded by Councilmember Wright, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Escutia-Braaton, Madrigal, Ricci,  
Wright, Mayor Zwahlen

NOES: Councilmembers: None

ABSENT: Councilmembers: Kenoyer, Zoslocki

ATTEST:   
DANA SANCHEZ, Interim City Clerk

(SEAL)

APPROVED AS TO FORM:

BY:   
JOSE M. SANCHEZ, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2022-143**

**RESOLUTION APPROVING THE APPOINTMENT OF AMIN VOHRA AS THE  
2022 PLANNING COMMISSION REPRESENTATIVE TO THE BOARD OF  
ZONING ADJUSTMENT (BZA) WITH A TERM EXPIRATION OF DECEMBER  
31, 2022**

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

WHEREAS, the Planning Commission appoints an individual from their membership to serve as the Planning Commission representative to the Board of Zoning Adjustment (BZA) and the Citizens Housing and Community Development Committee (CH&CDC) each year; and

WHEREAS, the Planning Commission met on February 28, 2022, and recommended the appointment of Amin Vohra as its representative to the Board of Zoning Adjustment for 2022, and

WHEREAS, Mr. Vohra, as the Planning Commission's representative since 2016, is qualified and willing to be reappointed the Planning Commission representative to the Board of Zoning Adjustment for 2022.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Modesto that it hereby approves the appointment of Amin Vohra as the 2022 Planning Commission representative to the Board of Zoning Adjustment, with a term expiration of December 31, 2022.

BE IT FURTHER RESOLVED, that the City Clerk is hereby directed to transmit a copy of this resolution to the appointed member of the Board of Zoning Adjustment, and the Secretary thereof.

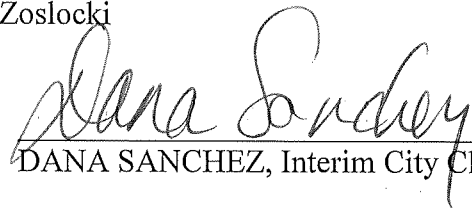
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 5th day of April, 2022, by Councilmember Wright, who moved its adoption, which motion being duly seconded by Councilmember Madrigal, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Escutia-Braaton, Madrigal, Ricci,  
Wright, Mayor Zwahlen

NOES: Councilmembers: None

ABSENT: Councilmembers: Kenoyer, Zoslocki

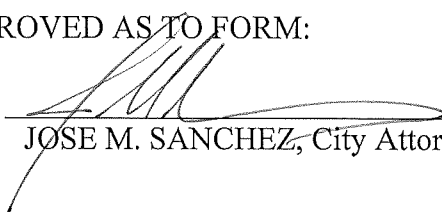
ATTEST:

  
DANA SANCHEZ, Interim City Clerk

(SEAL)

APPROVED AS TO FORM:

BY:

  
JOSE M. SANCHEZ, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2022-144**

**RESOLUTION CONTINUING TO AUTHORIZE REMOTE  
TELECONFERENCE MEETINGS OF THE CITY OF MODESTO PURSUANT  
TO ASSEMBLY BILL 361**

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

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

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

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

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

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

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

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

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

WHEREAS, on September 28, 2021, the City Council adopted Resolution No. 2021-370 authorizing remote teleconference meetings pursuant to AB361 (Government Code section 54953(e)); and

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

WHEREAS, the City Council has considered the circumstances of the Governor’s state of emergency proclamation pursuant to Government Code section 8625, which remains active; and

WHEREAS, on March 8, 2022, the County of Stanislaus Board of Supervisors terminated the Declaration of a Local Health Emergency that was issued on March 11, 2020; and

WHEREAS, notwithstanding the Local Health Emergency termination, on February 28, 2022 the Stanislaus County Public Health Services Agency issued guidance strongly recommending community members to maintain social distancing measures by staying six (6) feet apart; and

WHEREAS, the City Council, acting for itself and for the benefit of all of the City's commissions, committees, and other bodies (collectively referred to as the "Legislative Bodies"), does hereby find that the Legislative Bodies shall continue to conduct their meetings without compliance with Government Code section 54953(b)(3), as authorized by Government Code section 54953(e), and that the Legislative Bodies shall continue to comply with the requirements to provide the public with access to the meetings as prescribed in Government Code section 54953(e)(2) as a consequence of the ongoing state of emergency and the continued social distancing measures required by local officials.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF MODESTO DOES HEREBY RESOLVE AS FOLLOWS:

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

Section 2. Consideration of State of Emergency. The City Council has considered the conditions of the state of emergency declared pursuant to Government Code section 8625, and determined that such emergency conditions continue to be present in the City.

Section 3. Continued Social Distancing Measures by State and Local Officials.

The City Council finds that the County of Stanislaus Health Officer's recommended measures to promote social distancing remain in effect.


Section 4. Remote Teleconference Meetings. The City Council finds that the conditions continue to exist pursuant to Government Code section 54953(e)(3) to allow Legislative Bodies to use teleconferencing to hold public meetings in accordance with Government Code section 54953(e)(2) to ensure members of the public have continued access to safely observe and participate in local government meetings.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 5th day of April, 2022, by Councilmember Wright, who moved its adoption, which motion being duly seconded by Councilmember Escutia-Bratton, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Escutia-Braaton, Madrigal, Ricci,  
Wright, Mayor Zwahlen


NOES: Councilmembers: None

ABSENT: Councilmembers: Kenoyer, Zoslocki

ATTEST:   
DANA SANCHEZ, Interim City Clerk

(SEAL)

APPROVED AS TO FORM:

BY:   
JOSE M. SANCHEZ, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2022-145**

**RESOLUTION AMENDING THE FISCAL YEAR 2021-22 ANNUAL  
OPERATING AND CAPITAL IMPROVEMENT FUND BUDGETS AND  
AUTHORIZING THE CITY MANAGER, TO TAKE THE NECESSARY STEPS  
TO IMPLEMENT THE PROVISIONS OF THIS RESOLUTION**

WHEREAS, a financial analysis has been completed and it has been determined that a budget adjustment is required to the Annual and Capital Improvement Budgets of the City of Modesto for Fiscal Year 2021-22.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves amending the Fiscal Year 2021-22 Annual Operating and Capital Improvement budget as shown in **Exhibit A**, which is **attached** hereto and incorporated by reference herein.

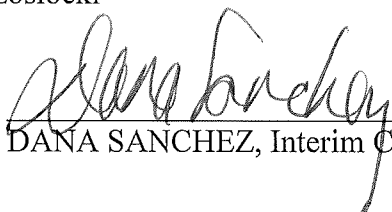
BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to take the necessary steps to implement the provisions of this resolution.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 5th day of April, 2022, by Councilmember Wright, who moved its adoption, which motion being duly seconded by Councilmember Escutia-Bratton, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Escutia-Braaton, Madrigal, Ricci,  
Wright, Mayor Zwahlen

NOES: Councilmembers: None

ABSENT: Councilmembers: Kenoyer, Zoslocki

ATTEST:   
DANA SANCHEZ, Interim City Clerk

(SEAL)

APPROVED AS TO FORM:

BY:   
JOSE M. SANCHEZ, City Attorney

**EXHIBIT A**

**FISCAL YEAR 2021-22**

**COMMUNITY & ECONOMIC DEVELOPMENT**

- A budget adjustment is necessary to establish a transfer from the LTF – Street and Roads Fund (1510) to Project 100806 – 2016 Pavement Rehab Project within the Capital Grants – Streets CIP Projects Fund (3160) in the amount of \$411,463. In addition, the transfer from the Measure L – Road Tax Fund (1410) to Project 100806 – 2016 Pavement Rehab Project within the Capital Grants – Streets CIP Projects Fund (3160) needs to be reduced by \$411,463. The project was determined to be eligible to use LTF – Streets and Roads fund balance and will return funds to the Measure L – Road Tax Fund to be used on a future Local Streets and Roads project in the future.

**UTILITIES**

- A budget adjustment in the amount of \$2,716,416 is needed in the Water Fund (4100) to recognize grant revenue offsetting delinquent account balances for Water Utility Accounts.

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2022-146**

**RESOLUTION ACCEPTING THE 2021 GENERAL PLAN ANNUAL PROGRESS  
REPORT AND AUTHORIZING STAFF TO SUBMIT IT TO THE STATE OF  
CALIFORNIA**

WHEREAS, California Government Code Section 65400(a)(2) requires that local governments prepare an Annual Progress Report regarding General Plan implementation, including matters related to meeting the applicable share of regional housing needs (California Government Code Section 65584); and

WHEREAS, Section 1104 of the City Charter specifies that appointed commissions shall report on their fiscal year activities to City Council on or before September 1 of each year; and

WHEREAS, said matter was scheduled for the regular City Council meeting of April 4, 2022, in the 10<sup>th</sup> Street Place Chambers located at 1010 10<sup>th</sup> Street, Modesto, California.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby accepts the 2021 General Plan Annual Progress Report.


BE IT FURTHER RESOLVED that the Clerk is hereby directed to submit the 2021 General Plan Annual Progress Report to the State of California.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 5th day of April, 2022, by Councilmember Wright, who moved its adoption, which motion being duly seconded by Councilmember Escutia-Bratton, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Escutia-Braaton, Madrigal, Ricci,  
Wright, Mayor Zwahlen

NOES: Councilmembers: None

ABSENT: Councilmembers: Kenoyer, Zoslocki

ATTEST:   
DANA SANCHEZ, Interim City Clerk

(SEAL)

APPROVED AS TO FORM:

BY:   
JOSE M. SANCHEZ, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2022-147**

**RESOLUTION APPROVING A FIFTH AMENDMENT TO THE  
PROFESSIONAL DESIGN SERVICES AGREEMENT FOR THE STATE ROUTE  
132 WEST FREEWAY/EXPRESSWAY - PHASE 1 PROJECT WITH DOKKEN  
ENGINEERING, INCREASING THE AGREEMENT AMOUNT BY \$89,227  
FROM \$9,155,998 TO A TOTAL NOT TO EXCEED AMOUNT OF \$9,245,225,  
AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO  
EXECUTE THE FIFTH AMENDMENT**

WHEREAS, the purpose of the State Route 132 West Freeway/Expressway - Phase 1 Project is to improve regional and interregional circulation, relieve traffic congestion along existing State Route 132, and enhance safety and operations for the existing and proposed transportation network; and

WHEREAS, on May 2, 2017, by Resolution No. 2017-174, the City Council approved an agreement with Dokken Engineering for professional design services in the amount of \$6,400,000, plus \$600,000 for additional services, for a total contract amount of \$7,000,000; and

WHEREAS, on January 22, 2019, by Resolution No. 2019-01, the City Council approved a First Amendment to the agreement with Dokken Engineering in the amount of \$344,096, for a total contract amount of \$7,344,096; and

WHEREAS, on May 7, 2019, by Resolution No. 2019-208, the City Council approved a Second Amendment to the agreement with Dokken Engineering in the amount of \$144,422, for a total contract amount of \$7,488,518; and

WHEREAS, on September 24, 2019, by Resolution No. 2019-441, the City Council approved a Third Amendment to the agreement with Dokken Engineering in the amount of \$1,363,210, for a total contract amount of \$8,851,728; and

WHEREAS, on December 8, 2020, by Resolution No. 2020-504, the City Council approved a Fourth Amendment to the agreement with Dokken Engineering in the amount of \$304,270, for a total contract amount of \$9,155,998; and

WHEREAS, on February 16, 2022, Dokken Engineering submitted to the City a budget augmentation for additional tasks in the amount of \$89,227, for a total contract amount of \$9,245,225; and

WHEREAS, the City opened bids for the construction of State Route 132 West Freeway/Expressway – Phase I Project on August 20, 2019; and

WHEREAS, due to the complexity of the project, design support services are required during the construction of the project to provide technical support to the construction manager; and

WHEREAS, as the project construction has developed, additional design support services have been identified to complete tasks that were not known during final design; and

WHEREAS, the additional services to be provided include design of pedestrian access improvements at the Carpenter Road/Elm Avenue intersection and design of a wider and longer MID access road parallel to SR132 for the westerly 1-1/4 miles of the project; and

WHEREAS, as the City does not have the staffing or expertise to provide the specialized design support required to complete the many incidental tasks, Staff recommends approving the Fifth Amendment with Dokken Engineering to assist the successful completion of the SR132 West Freeway/Expressway – Phase 1 Project.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the Fifth Amendment increasing the agreement amount with Dokken Engineering, for professional design services for the State Route 132 West Freeway/Expressway - Phase 1 Project by \$89,227 from \$9,155,998 to a total not to exceed amount of \$9,245,225.

BE IT FURTHER RESOLVED, that the City Manager, or his designee, is authorized to execute the Fifth Amendment, in a form approved by the City Attorney.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 5th day of April, 2022, by Councilmember Wright, who moved its adoption, which motion being duly seconded by Councilmember Escutia-Bratton, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Escutia-Braaton, Madrigal, Ricci,  
Wright, Mayor Zwahlen

NOES: Councilmembers: None

ABSENT: Councilmembers: Kenoyer, Zoslocki

ATTEST:   
DANA SANCHEZ, Interim City Clerk

(SEAL)

APPROVED AS TO FORM:

BY:   
JOSE M. SANCHEZ, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2022-148**

**RESOLUTION APPROVING SUBMITTAL OF A GRANT FUNDING APPLICATION FOR THE CITY OF MODESTO'S ACTIVE TRANSPORTATION PROGRAM IN THE AMOUNT OF \$6,985,000 FOR THE ENCINA AVENUE AND LINCOLN AVENUE PEDESTRIAN/BICYCLE TRAIL CORRIDOR PROJECT AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, EXECUTE AND SUBMIT ALL GRANT DOCUMENTS**

WHEREAS, the State Active Transportation Program<sup>1</sup> (ATP) was created by Senate Bill 99 (Chapter 359, Statutes of 2013) and Assembly Bill 101 (Chapter 354, Statutes of 2013) to encourage increased use of active modes of transportation, such as biking and walking; and

WHEREAS, pursuant to the above referenced statutes, the goals of the Active Transportation Program are to:

- Increase the proportion of trips accomplished by biking and walking.
- Increase the safety and mobility of non-motorized users.
- Advance the active transportation efforts of regional agencies to achieve greenhouse gas reduction goals as established pursuant to Senate Bill 375 (Chapter 728, Statutes of 2008) and Senate Bill 391 (Chapter 585, Statutes of 2009).
- Enhance public health, including reduction of childhood obesity through the use of programs including, but not limited to, projects eligible for Safe Routes to School Program funding.
- Ensure that disadvantaged communities fully share in the benefits of the program.
- Provide a broad spectrum of projects to benefit many types of active transportation users.

WHEREAS, staff is seeking approval to apply for competitive State ATP Cycle 6 grant funding for a proposed 2.6-mile pedestrian/bicycle path East-West along Encina

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<sup>1</sup> Active Transportation Plan - <https://dot.ca.gov/programs/local-assistance/fed-and-state-programs/active-transportation-program>

Avenue from N. Conejo Avenue to Lincoln Avenue and North-South along Lincoln Avenue from Dry Creek Trail to Yosemite Boulevard; and

WHEREAS, all improvements are planned to be within public right-of-way with no anticipated land acquisition; and

WHEREAS, on March 4, 2021, Measure L funds were discussed and recommended by the Citizens' Transportation Sales Tax Commission for the local match.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves submittal of a grant funding application for the City of Modesto's Active Transportation Program in the amount of \$6,985,000 for the Encina Avenue and Lincoln Avenue Pedestrian/Bicycle Trail Corridor Project, and

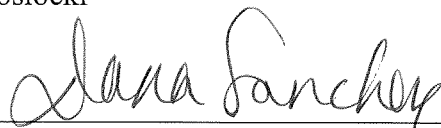
BE IT FURTHER RESOLVED, that the City Manager, or his designee, is authorized to execute and submit all grant documents.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 5th day of April, 2022, by Councilmember Wright, who moved its adoption, which motion being duly seconded by Councilmember Escutia-Bratton, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Escutia-Braaton, Madrigal, Ricci,  
Wright, Mayor Zwahlen

NOES: Councilmembers: None

ABSENT: Councilmembers: Kenoyer, Zoslocki

ATTEST:   
DANA SANCHEZ, Interim City Clerk

(SEAL)

APPROVED AS TO FORM:

BY:   
JOSE M. SANCHEZ, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2022-149**

**RESOLUTION APPROVING A WILL SERVE LETTER AND OUTSIDE SERVICE AGREEMENT BETWEEN THE CITY OF MODESTO AND KARASHEEL, LP, A CALIFORNIA LIMITED PARTENERSHIP TO CONNECT TO THE CITY OF MODESTO'S EXISTING SEWER SYSTEM FOR THE PROPERTY LOCATED AT 1421 N. CARPENTER ROAD (APN: 081-028-020), AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO THE SIGN THE WILL SERVE LETTER AND EXECUTE THE OUTSIDE SERVICE AGREEMENT**

WHEREAS, Karasheel, LP, a California Limited Parteneship, owns commercial property located at 1421 N. Carpenter Road which is located outside of Modesto City Limits and inside the City's Sphere of Influence, and

WHEREAS, the property located at 1421 N. Carpenter Road, is not connected to City's sewer system and is requesting a sewer connection for a new facility, and

WHEREAS, on November 25, 2014, City Council approved Resolution No. 2014-473 amending City Council Policy 5.002, and

WHEREAS, on December 9, 2014, City Council approved adoption of Ordinance No.3612-C.S. amending City of Modesto Municipal Code Section 11-1.05, and

WHEREAS both of these amendments included language allowing the City Manager, upon the recommendation of the Director responsible for utility system planning to approve standard agreements of service for extension of sewer services into certain unincorporated areas without City Council approval, and

WHEREAS, the property located at 1421 N. Carpenter Road is not located within one of those designated areas and therefore requires City Council approval prior to allowing the sewer connection, and

WHEREAS, City staff has completed an analysis and determined that it is reasonable for the City of Modesto to provide sewer service to this property, and

WHEREAS, consistent with adopted LAFCO Policy 15, the extension of sewer service is proposed to remedy a health and safety concern in an area with an existing sewer system, and

WHEREAS, the sewer connection fees shall be paid and associated permits will be obtained prior to connecting to the City sewer system, and

WHEREAS, the property owner has executed an Outside Service Agreement for sewer service with the City as required to receive sewer service outside the City limits.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the Will Serve Letter and Outside Service Agreement between the City of Modesto and Karasheel, LP, a California Limited Partnership to connect to the City of Modesto's existing sewer system for the property located at 1421 N. Carpenter Road (APN: 081-028-020).

BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to approve the Will Serve letter and execute the Outside Service Agreement for sewer service.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 5th day of April, 2022, by Councilmember Wright, who moved its adoption, which motion being duly seconded by Councilmember Escutia-Bratton, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Escutia-Braaton, Madrigal, Ricci,  
Wright, Mayor Zwahlen

NOES: Councilmembers: None

ABSENT: Councilmembers: Kenoyer, Zoslocki

ATTEST: *Dana Sanchez*  
DANA SANCHEZ, Interim City Clerk

(SEAL)

APPROVED AS TO FORM:

BY: *Jose M. Sanchez*  
*for* JOSE M. SANCHEZ, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2022-150**

**RESOLUTION ACCEPTING A HIGHWAY SAFETY IMPROVEMENT PROGRAM (HSIP) GRANT IN THE AMOUNT OF \$100,350 FOR THE INSTALLATION OF PEDESTRIAN HYBRID BEACONS AT STANDIFORD/LONGBRIDGE AND SYLVAN/BRIDGEFORD PROJECT, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE ALL FUNDING AND GRANT RELATED DOCUMENTS**

WHEREAS, on May 4, 2020, Caltrans Division of Local Assistance announced Cycle 10 Call for Projects for the HSIP program. Approximately \$220 million in funds were made available with applications due by September 4, 2020; and

WHEREAS, on July 7, 2020, by Resolution No. 2020-293, the City Council approved the submittal of grant applications to the California Department of Transportation for Highway Safety Improvement Program (HSIP) funds, and authorized the City Manager, or his designee, to submit grant applications; and

WHEREAS, following the evaluation of potential projects based on collision history along specific corridors and locations throughout the City of Modesto as part of the Systemic Safety Analysis Report (SSAR) project, an HSIP grant application was developed for the installation of pedestrian hybrid beacons, installation of pedestrian refuge islands with directional median openings, and high visibility crosswalks at the intersections of Standiford Avenue/Longbridge Drive and Sylvan Avenue/Bridgeford Lane; and

WHEREAS, on March 26, 2021, Caltrans provided notification that the City's HSIP application had been selected for funding. Per Administrative Directive 7.2 Grant Management – Grant award acceptance requires Council approval based on the award

requiring local match funding or if the grant award is over \$1,000,000 and no local match funding is required; and

WHEREAS, on November 29, 2021, City staff submitted a request for allocation of State funds; and

WHEREAS, on December 22, 2021, Caltrans provided a letter approving the allocation and allowing work to begin for the Preliminary Engineering phase of the project.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby accepts a Highway Safety Improvement Program (HSIP) Grant in the amount of \$100,350 for the installation of Pedestrian Hybrid Beacons at Standiford/Longbridge and Sylvan/ Bridgeford project.

BE IT FURTHER RESOLVED, that the City Manager, or his designee, is hereby authorized to execute all funding and Grant related documents.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 5th day of April, 2022, by Councilmember Wright, who moved its adoption, which motion being duly seconded by Councilmember Escutia-Bratton, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Escutia-Braaton, Madrigal, Ricci,  
Wright, Mayor Zwahlen

NOES: Councilmembers: None

ABSENT: Councilmembers: Kenoyer, Zoslocki

ATTEST:   
DANA SANCHEZ, Interim City Clerk

(SEAL)

APPROVED AS TO FORM:

BY:   
JOSE M. SANCHEZ, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2022-151**

**RESOLUTION AMENDING THE FISCAL YEAR 2021/22 CAPITAL IMPROVEMENT PROGRAM (CIP) BUDGET, IN THE AMOUNT OF \$111,500 AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO TAKE THE NECESSARY STEPS TO IMPLEMENT THE PROVISIONS OF THIS RESOLUTION**

WHEREAS, on May 4, 2020, Caltrans Division of Local Assistance announced Cycle 10 Call for Projects for the HSIP program. Approximately \$220 million in funds were made available with applications due by September 4, 2020; and

WHEREAS, on July 7, 2020, by Resolution No. 2020-293, the City Council approved the submittal of grant applications to the California Department of Transportation for Highway Safety Improvement Program (HSIP) funds, and authorized the City Manager, or his designee, to submit grant applications; and

WHEREAS, following the evaluation of potential projects based on collision history along specific corridors and locations throughout the City of Modesto as part of the Systemic Safety Analysis Report (SSAR) project, an HSIP grant application was developed for the installation of pedestrian hybrid beacons, installation of pedestrian refuge islands with directional median openings, and high visibility crosswalks at the intersections of Standiford Avenue/Longbridge Drive and Sylvan Avenue/Bridgeford Lane; and

WHEREAS, on March 26, 2021, Caltrans provided notification that the City's HSIP application had been selected for funding. Per Administrative Directive 7.2 Grant Management – Grant award acceptance requires Council approval based on the award requiring local match funding or if the grant award is over \$1,000,000 and no local match funding is required; and

WHEREAS, on November 29, 2021, City staff submitted a request for allocation of State funds; and

WHEREAS, on December 22, 2021, Caltrans provided a letter approving the allocation and allowing work to begin for the Preliminary Engineering phase of the project; and

WHEREAS, additional funding is needed for the Preliminary Engineering phase of the project and sufficient funds are available in the Traffic Management Measure L category; and

WHEREAS, the City Council shall consider amending the Capital Improvement Program (CIP) budget to recognize grant revenue, establish the transfer from Measure L Local Road Tax fund, and increase the project discretionary expense budget in the amount of \$111,500 to fully fund Preliminary Engineering phase of the project.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby amends the Fiscal Year 2021/22 Capital Improvement Program (CIP) budget, in the amount of \$111,500.

BE IT FURTHER RESOLVED, that the City Manager, or his designee, is hereby authorized to take the necessary steps to implement the provisions of this Resolution.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 5th day of April, 2022, by Councilmember Wright, who moved its adoption, which motion being duly seconded by Councilmember Escutia-Bratton, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Escutia-Braaton, Madrigal, Ricci,  
Wright, Mayor Zwahlen


NOES: Councilmembers: None

ABSENT: Councilmembers: Kenoyer, Zoslocki

ATTEST:   
DANA SANCHEZ, Interim City Clerk

(SEAL)

APPROVED AS TO FORM:

BY:   
JOSE M. SANCHEZ, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2022-152**

**RESOLUTION ACCEPTING A HIGHWAY SAFETY IMPROVEMENT PROGRAM (HSIP) GRANT IN THE AMOUNT OF \$147,510 FOR THE OAKDALE ROAD FROM LANCEY DRIVE TO CELESTE DRIVE IMPROVEMENTS PROJECT, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE ALL FUNDING AND GRANT RELATED DOCUMENTS**

WHEREAS, on May 4, 2020, Caltrans Division of Local Assistance announced Cycle 10 Call for Projects for the HSIP program. Approximately \$220 million in funds were made available with applications due by September 4, 2020; and

WHEREAS, on July 7, 2020, by Resolution No. 2020-293, the City Council approved the submittal of grant applications to the California Department of Transportation for Highway Safety Improvement Program (HSIP) funds, and authorized the City Manager, or his designee, to submit grant applications; and

WHEREAS, following the evaluation of potential projects based on collision history along specific corridors and locations throughout the City of Modesto as part of the Systemic Safety Analysis Report (SSAR) project, an HSIP grant application was developed for the Oakdale Road Phase 1 project from Lancey Drive to Celeste Drive; and

WHEREAS, the scope of work will consider the installation of the following: pedestrian hybrid beacon, leading pedestrian intervals at signals, blank-out no right turn signals/signage, directional median, high visibility crosswalks, median refuge islands, and Americans with Disabilities (ADA) improvements, and

WHEREAS, on March 26, 2021, Caltrans provided notification that the City's HSIP application had been selected for funding; and

WHEREAS, per Administrative Directive 7.2 Grant Management – Grant award acceptance requires Council approval based on the award requiring local match funding or if the grant award is over \$1,000,000 and no local match funding is required; and

WHEREAS, on November 29, 2021, City staff submitted a request for allocation of State funds; and

WHEREAS, on December 22, 2021, Caltrans provided a letter approving the allocation and allowing work to begin for the Preliminary Engineering phase of the project.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby accepts a Highway Safety Improvement Program (HSIP) Grant in the amount of \$147,510 for the Oakdale Road from Lancey Drive to Celeste Drive Improvements project.

BE IT FURTHER RESOLVED, that the City Manager, or his designee, are authorized to execute all funding and Grant related documents.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 5th day of April, 2022, by Councilmember Wright, who moved its adoption, which motion being duly seconded by Councilmember Escutia-Bratton, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Escutia-Braaton, Madrigal, Ricci,  
Wright, Mayor Zwahlen

NOES: Councilmembers: None

ABSENT: Councilmembers: Kenoyer, Zoslocki

ATTEST:   
DANA SANCHEZ, Interim City Clerk

(SEAL)

APPROVED AS TO FORM:

BY:   
JOSE M. SANCHEZ, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2022-153**

**RESOLUTION AMENDING THE FISCAL YEAR 2021/22 CAPITAL  
IMPROVEMENT PROGRAM (CIP) BUDGET, IN THE AMOUNT OF \$163,900  
AND AUTHORIZING THE CITY MANAGER OR HIS DESIGNEE, TO TAKE  
THE NECESSARY STEPS TO IMPLEMENT THE PROVISIONS OF THIS  
RESOLUTION**

WHEREAS, May 4, 2020, Caltrans Division of Local Assistance announced Cycle 10 Call for Projects for the HSIP program. Approximately \$220 million in funds were made available with applications due by September 4, 2020; and

WHEREAS, on July 7, 2020, by Resolution No. 2020-293, the City Council approved the submittal of grant applications to the California Department of Transportation for Highway Safety Improvement Program (HSIP) funds, and authorized the City Manager, or his designee, to submit grant applications; and

WHEREAS, following the evaluation of potential projects based on collision history along specific corridors and locations throughout the City of Modesto as part of the Systemic Safety Analysis Report (SSAR) project, an HSIP grant application was developed for the Oakdale Road Phase 1 project from Lancey Drive to Celeste Drive; and

WHEREAS, the scope of work will consider the installation of the following: pedestrian hybrid beacon, leading pedestrian intervals at signals, blank-out no right turn signals/signage, directional median, high visibility crosswalks, median refuge islands, and some Americans with Disabilities (ADA) improvements; and

WHEREAS, on March 26, 2021, Caltrans provided notification that the City's HSIP application had been selected for funding; and

WHEREAS, per Administrative Directive 7.2 Grant Management – Grant award acceptance requires Council approval based on the award requiring local match funding or if the grant award is over \$1,000,000 and no local match funding is required; and

WHEREAS, on November 29, 2021, City staff submitted a request for allocation of State funds; and

WHEREAS, on December 22, 2021, Caltrans provided a letter approving the allocation and allowing work to begin for the Preliminary Engineering phase of the project; and

WHEREAS, additional funding is needed for the Preliminary Engineering Phase of the project and sufficient funds are available in the Traffic Management Measure L category; and

WHEREAS, the City Council shall consider amending the Capital Improvement Program (CIP) budget to recognize grant revenue, establish the transfer from Measure L Local Road Tax fund, and increase the project discretionary expense budget in the amount of \$163,900 to fully fund the Preliminary Engineering phase of the project.

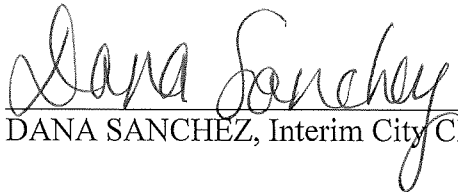
NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby amends the Fiscal Year 2021/22 Capital Improvement Program (CIP) budget, in the amount of \$163,900, and authorizes the City Manager of his Designee, to take the necessary steps to implement the provisions of this Resolution.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 5th day of April, 2022, by Councilmember Wright, who moved its adoption, which motion being duly seconded by Councilmember Escutia-Bratton, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Escutia-Braaton, Madrigal, Ricci,  
Wright, Mayor Zwahlen

NOES: Councilmembers: None

ABSENT: Councilmembers: Kenoyer, Zoslocki

ATTEST:   
DANA SANCHEZ, Interim City Clerk

(SEAL)

APPROVED AS TO FORM:

BY:   
JOSE M. SANCHEZ, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2022-154**

**RESOLUTION APPROVING A FIRST AMENDMENT TO THE AGREEMENT WITH ASSOCIATED ENGINEERING GROUP, INC. FOR ADDITIONAL PROFESSIONAL ENGINEERING DESIGN SERVICES FOR THE HETCH HETCHY AND CLARATINA AVENUE STRUCTURAL CROSSING PROJECT, INCREASING THE AGREEMENT AMOUNT BY \$59,795 FROM \$147,845.50 TO A NEW TOTAL AMOUNT OF \$207,640.50, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE TO EXECUTE THE FIRST AMENDMENT TO AGREEMENT**

WHEREAS, during preliminary design of the Hetch Hetchy and Claratina Avenue Structural Crossing project, a utility conflict was identified with Hetch Hetchy water transmission lines along Claratina Avenue just east of McHenry Avenue, and

WHEREAS, Hetch Hetchy has prior property rights within this area and is governed by the San Francisco Public Utilities Commission, and

WHEREAS, to widen Claratina Avenue above the water transmission lines, the City must coordinate design with the Hetch Hetchy utility crossing and meet all the requirements and conditions imposed by the San Francisco Public Utilities Commission, and

WHEREAS, the Infiniti dealership development adjacent to the proposed project also had a utility conflict with the Hetch Hetchy and the process to complete the work was very complicated, time consuming, and costly, and

WHEREAS, Associated Engineering Group, Inc. was the design firm hired by the developer of the Infiniti dealership to coordinate and complete the work adjacent to the Hetch Hetchy utilities, and

WHEREAS, the City determined that a structural crossing would be required based on preliminary discussions with Hetch Hetchy and the structural design required for the adjacent Infiniti dealership development, and

WHEREAS, the structural crossing is required to complete the Claratina Avenue widening between McHenry Avenue and Coffee Road, and

WHEREAS, this work within the Hetch Hetchy area requires specialized expertise and will be time consuming and costly; therefore, staff created a separate Project #100945 for the Hetch Hetchy and Claratina Avenue Structural Crossing project, and

WHEREAS, based on the complexity of structural crossing with Hetch Hetchy, on April 26, 2016, by Resolution No. 2016-166, Council approved an agreement with Associated Engineering Group, Inc., for professional engineering design services and utility coordination for the Hetch Hetchy and Claratina Avenue Structural Crossing project, and

WHEREAS, Associated Engineering has completed several tasks including: topographic services, geotechnical work, civil engineering design and preparation right of way legal descriptions and plat maps for property acquisitions and easements, and

WHEREAS, additional tasks remaining to be completed include: finalizing the required structural section with Hetch Hetchy, completion of civil engineering design, and construction document package processing, and

WHEREAS, an Amendment to the Agreement with Associated Engineering is required to be able to complete additional required services, which are currently outside the scope of the agreement, and

WHEREAS, due to the size of the proposed structure, there is an impact on adjacent properties, and

WHEREAS, additional services include preparation of plans, specifications and bidding support for the demolition of an existing residential structure that is to be acquired with this project, preparation of temporary construction easements for the residential structure, and continued and additional support services during design review, and

WHEREAS, on February 8, 2022, Associated Engineering submitted a proposal for the additional scope required for the Design phase of the Hetch Hetchy and Claratina Avenue Structural Crossing project in the amount of \$59,795, and

WHEREAS, Staff has reviewed the proposal and recommends approving a First Amendment to Agreement with Associated Engineering Group, Inc.,

NOW, THEREFORE BE IT RESOLVED by the Council of the City of Modesto that it hereby approves a First Amendment to the Agreement with Associated Engineering Group, Inc. for additional professional engineering design services for the Hetch Hetchy and Claratina Avenue Structural Crossing Project, increasing the Agreement amount by \$59,795 from \$147,845.50 to a new total amount of \$207,640.50.

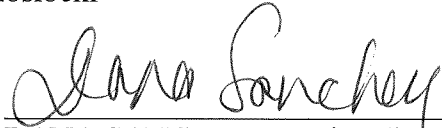
BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to execute the First Amendment, in a form approved by the City Attorney.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 5th day of April, 2022, by Councilmember Wright, who moved its adoption, which motion being duly seconded by Councilmember Escutia-Bratton, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Escutia-Braaton, Madrigal, Ricci,  
Wright, Mayor Zwahlen

NOES: Councilmembers: None

ABSENT: Councilmembers: Kenoyer, Zoslocki

ATTEST:   
DANA SANCHEZ, Interim City Clerk

(SEAL)

APPROVED AS TO FORM:

BY:   
JOSE M. SANCHEZ, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2022-155**

**RESOLUTION APPROVING A THIRD ONE-YEAR EXTENSION OPTION FOR THE PURCHASING AGREEMENT FOR HOT PATCH WORK WITH UNITED PAVEMENT MAINTENANCE, HUGHSON, CA, FOR AN ANNUAL AMOUNT NOT TO EXCEED \$3,906,500 AND AUTHORIZING THE DIRECTOR OF FINANCE OR HER DESIGNEE TO EXECUTE THE EXTENSION**

WHEREAS, the Utilities Department's Water and Wastewater Divisions request contractual assistance to perform hot patch work throughout Modesto and the outlying areas including the City's regional water systems; and

WHEREAS, on May 22, 2018, by Resolution 2018-188, Council approved the award of bids for the furnishing of hot patch work for the Utilities Department's Water and Wastewater Divisions, to two firms: Garrett Thompson Construction, Inc., Modesto, CA, for an annual cost not to exceed \$4,106,500 and United Pavement Maintenance, Hughson, CA for an annual cost not to exceed \$200,000, both were awarded two-year agreements with three one-year extension options, with each one-year extension requiring approval by City Council, for a total combined annual cost not to exceed \$4,306,500; and

WHEREAS, on December 4, 2018, staff provided Council an informational report on the hot patch agreements. The report included information on the Utilities Department's progress on hot patch work, on-site job inspections, invoice review, certified payroll review, and contractor status review. The results of this review identified that all of the work being performed by Garrett Thompson Construction and United Pavement Maintenance met all agreement obligations; and

WHEREAS, in May 2019, the City terminated the agreement with Garrett Thompson for failure to maintain insurance coverage as required by the agreement,

resulting in the need for a secondary provider in order to maintain primary and back-up contractor support once United Pavement became the primary vendor; and

WHEREAS, on July 9, 2019, by Resolution 2019-344, Council authorized the agreement with Patch Crew, Modesto, CA, for an annual estimated amount of \$400,000, and a total annual combined amount of \$4,306,500 between United Pavement Maintenance and Patch Crew; and

WHEREAS, on March 10, 2020, by Resolution 2020-128, Council authorized the first one-year extension option with United Pavement Maintenance, Hughson, CA and Patch Crew, Modesto, CA without exceeding a total annual combined amount of \$4,306,500 between both providers; and

WHEREAS, on April 6, 2021, by Resolution 2021-106, Council authorized the second one-year extension option with both United Pavement Maintenance and Patch Crew.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby authorizes the third one-year extension option for the purchasing agreement for hot patch work with United Pavement Maintenance, Hughson, CA for an annual amount of not to exceed \$3,906,500.

BE IT FURTHER RESOLVED, that the Director of Finance or her designee to execute the third one-year extension option, in a form approved by the City Attorney.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 5th day of April, 2022, by Councilmember Wright, who moved its adoption, which motion being duly seconded by Councilmember Escutia-Bratton, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Escutia-Braaton, Madrigal, Ricci,  
Wright, Mayor Zwahlen

NOES: Councilmembers: None

ABSENT: Councilmembers: Kenoyer, Zoslocki

ATTEST:   
DANA SANCHEZ, Interim City Clerk

(SEAL)

APPROVED AS TO FORM:

BY:   
JOSE M. SANCHEZ, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2022-156**

**RESOLUTION AMENDING THE POSITION ALLOCATION FOR FISCAL  
YEAR 2021-22 AS ADOPTED IN THE OPERATING BUDGET**

WHEREAS, a Position Allocation for the City of Modesto was adopted by Modesto City Council on June 23, 2021, as part of the Annual Budget of the City of Modesto for Fiscal Year 2021-22, and

WHEREAS, classification studies are conducted to ensure that a classification system is equitable and consistent within an organization and that positions are correctly classified, and

WHEREAS, per Personnel Administrative Order 2.2-87-12, a classification study may be conducted in response to a reclassification request, to develop/revise a classification specification, or to assist in a reorganization, and

WHEREAS, classification studies were conducted by Human Resources to determine appropriate classifications, and

WHEREAS, position changes will be effective the first day of the pay period upon adoption, unless otherwise noted.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves amending the Position Allocation and the Fiscal Year 2021-22 Operating Budget for various departments as follows:

1. Add two (2) Administrative Analyst II in the HUD Administration Division ((14111) of the Community and Economic Development Department.

2. Reallocate one (1) Housing Rehabilitation Specialist to one (1) Community Development Program Specialist II in the HUD Administration Division (14111) of the Community and Economic Development Department.
3. Add one (1) Administrative Office Assistant III in the Fire Prevention Division (18510) of the Modesto Fire Department.
4. Reallocation one (1) Senior Utilities Services Worker to one (1) Senior Plant Mechanic in the Sutter Plant Maintenance Division (44313) of the Utilities Department, and reclassify the incumbent accordingly.
5. Reallocate one (1) Senior Utilities Services Worker to one (1) Senior Plant Mechanic in the Jennings Plant Maintenance Division (44314) of the Utilities Department.
6. Reallocate one (1) Plant Mechanic Trainee to one (1) Plant Mechanic II in the Sutter Plant Maintenance Division (44313) of the Utilities Department.
7. Reallocate two (2) Plant Mechanic Trainee to two (2) Plant Mechanic II in the Jennings Plant Maintenance Division (44314) of the Utilities Department.
8. Eliminate one (1) Utilities Services Worker II in the Jennings Plant Maintenance Division (44314) of the Utilities Department.
9. Eliminate one (1) Utilities Services Worker III in the Jennings Plant Maintenance Division (44314) of the Utilities Department.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 5th day of April, 2022, by Councilmember Wright, who moved its adoption, which motion being duly seconded by Councilmember Escutia-Bratton, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Escutia-Braaton, Madrigal, Ricci,  
Wright, Mayor Zwahlen


NOES: Councilmembers: None

ABSENT: Councilmembers: Kenoyer, Zoslocki

ATTEST:   
DANA SANCHEZ, Interim City Clerk

(SEAL)

APPROVED AS TO FORM:

BY:   
JOSE M. SANCHEZ, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2022-157**

**RESOLUTION AMENDING THE CLASSIFICATION PLAN FOR THE CITY OF  
MODESTO TO AMEND THE PLANT MAINTENANCE PLANNER SALARY  
RANGE FROM 134 TO 136**

WHEREAS, a Position Classification Plan for the City of Modesto was adopted by Modesto City Council Resolution No. 2021-237 pursuant to Rule 2.2 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:

1. CLASSIFICATION PLAN AMENDED. The Position Classification Plan of the City of Modesto is hereby amended to amend the Plant Maintenance Planner salary range from 134 to 136.
2. EFFECTIVE DATE. This Resolution shall become effective the first day of the pay period following adoption.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 5th day of April, 2022, by Councilmember Wright, who moved its adoption, which motion being duly seconded by Councilmember Escutia-Bratton, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Escutia-Braaton, Madrigal, Ricci,  
Wright, Mayor Zwahlen

NOES: Councilmembers: None

ABSENT: Councilmembers: Kenoyer, Zoslocki

ATTEST:   
DANA SANCHEZ, Interim City Clerk

(SEAL)

APPROVED AS TO FORM:

BY:   
JOSE M. SANCHEZ, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2022-158**

**RESOLUTION APPROVING A SECOND AMENDMENT TO THE LEGAL SERVICES AGREEMENT WITH LAFAYETTE & KUMAGAI, LLP IN THE AMOUNT OF \$200,000, FOR A TOTAL AMOUNT NOT TO EXCEED \$245,000, FOR CONTINUED REPRESENTATION IN PERSONNEL MATTERS, EXTENDING THE TERM TO APRIL 1, 2024, AND AUTHORIZING THE CITY MANAGER OR HIS DESIGNEE TO EXECUTE THE AGREEMENT**

WHEREAS, on November 5, 2020, the City entered into a standard Legal Services Agreement with Lafayette & Kumagai, LLP in the amount of \$45,000 for representation in labor and employment matters; and

WHEREAS, a First Amendment to the Legal Services Agreement was executed on June 30, 2021 to extend the term of the agreement to June 30, 2022; and

WHEREAS, Lafayette & Kumagai has recently been assigned an additional personnel matter and staff would like to amend the agreement to extend the term of the agreement to April 1, 2024, and increase the agreement budget in the amount of \$200,000, for continued services for a total agreement amount not to exceed \$245,000.

WHEREAS, the City has drafted a Second Amendment to the Legal Services agreement with Lafayette & Kumagai, LLP for continued services and representation.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves a Second Amendment to the Legal Services Agreement with Lafayette & Kumagai, LLP in the amount of \$200,000, for a total not to exceed amount of \$245,000, and extends the term of the agreement to April 1, 2024, as provided in **Exhibit A attached** hereto and incorporated herein.


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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 5th day of April, 2022, by Councilmember Wright, who moved its adoption, which motion being duly seconded by Councilmember Escutia-Bratton, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Escutia-Braaton, Madrigal, Ricci,  
Wright, Mayor Zwahlen

NOES: Councilmembers: None

ABSENT: Councilmembers: Kenoyer, Zoslocki

ATTEST:   
DANA SANCHEZ, Interim City Clerk

(SEAL)

APPROVED AS TO FORM:

BY:   
JOSE M. SANCHEZ, City Attorney

## SECOND AMENDMENT TO LEGAL SERVICES AGREEMENT

This Second Amendment to the Legal Services (this “**Second Amendment**”), is made and entered into on the 5<sup>th</sup> day of April 2022 (“**Effective Date**”), by and between the **CITY OF MODESTO**, a California Municipal Corporation (“**City**”), and **LAFAYETTE & KUMAGAI, LLP** (“**Attorney**”), located at 1300 Clay Street, Suite 810, Oakland, California 94612. City and Attorney are hereinafter collectively referred to as the “**Parties**,” and singularly as “**Party**”.

### RECITALS

**WHEREAS**, City and Attorney entered into a Legal Services Agreement (“**Agreement**”) to provide for legal advice, representation and assistance on matters involving personnel and administrative investigations; and

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

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

**WHEREAS**, City and Attorney desire to amend the Agreement to extend the termination date and increase the budget of said agreement.

**NOW, THEREFORE**, it is hereby agreed that the Legal Services Agreement between the City of Modesto and Lafatette & Kumagai, LLP dated November 5, 2020, and amended on June 30, 2021 is amended as follows:

1. Section 1(b) of Paragraph 1, “Services,” is amended to state as follows:

**Term:** This Agreement shall become effective on the Effective Date, and shall continue through April 1, 2024 unless sooner terminated as provided in Section 7.

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

“The total of all fees paid to Attorney for the performance of all services set forth in Section 1 (hereafter the “**Service**”), and for all authorized Reimbursable Expenses (as defined hereafter), shall not exceed a total sum of two hundred and forty-five thousand dollars (\$245,000).

2. **Entire Agreement.** The parties to this Second Amendment understand and agree that except as stated herein all terms and conditions of the original Agreement, dated November 5, 2020, remain in full force and effect to the extent they are not in conflict with this Second Amendment. This document, including all exhibits, contain the entire amendment to the

Agreement between the Parties and supersedes whatever oral or written understanding they may have had prior to the execution of this Second Amendment. No alteration to the terms of this Second Amendment shall be valid unless approved in writing by Attorney and by City, in accordance with applicable provision of the Modesto City Code.

3. **Authority.** The person signing this Second Amendment for Attorney hereby represents and warrants that he/she is fully authorized to sign this Second Amendment on behalf of Attorney and to bind Attorney to the performance of its obligations hereunder.

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

**CITY OF MODESTO,**  
A Municipal Corporation

By: \_\_\_\_\_

Print name: Scotty Douglass  
Title: Deputy City Manager

**ATTEST:**

\_\_\_\_\_  
Dana Sanchez, Interim City Clerk

\_\_\_\_\_  
Christina Alger, Director of Human Resources

**[Signatures Continued on Next Page.]**

**ATTORNEY:  
LAFAYETTE & KUMAGAI, LLP**

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Federal I.D. No.

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State I.D. No.

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City of Modesto Business Op. Tax Cert. No.

TYPE OF BUSINESS ENTITY (*check one*):

Individual/Sole Proprietor

Partnership

Corporation

Limited Liability Company

Other (*please specify: Limited Liability Partnership*)

---

**Signature of Authorized Person**

---

Title

---

Additional Signature (*if required*)

---

Title

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2022 -159**

**RESOLUTION APPROVING AN AGREEMENT WITH SERGEANT KALANI SOUZA FOR THE PURCHASE OF RETIRED CITY OF MODESTO POLICE CANINE, CASH; AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE AGREEMENT**

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

WHEREAS, the City Council approved the sale of retired police canines for \$1 with Council Resolution, 99-370

WHEREAS, Modesto Police Canine Cash has reached an age where he is unable to perform at a satisfactory level with a new handler or partner, and

WHEREAS, City of Modesto, Sergeant Kalani Souza, wishes to purchase and assume possession of the canine, Cash, upon the dog's official retirement.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the agreement with Sergeant Kalani Souza for the purchase of retired police canine, Cash.

BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to execute the Agreement, in a form approved by the City Attorney.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 5th day of April, 2022, by Councilmember Wright, who moved its adoption, which motion being duly seconded by Councilmember Escutia-Bratton, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Escutia-Braaton, Madrigal, Ricci,  
Wright, Mayor Zwahlen

NOES: Councilmembers: None

ABSENT: Councilmembers: Kenoyer, Zoslocki

ATTEST:   
DANA SANCHEZ, Interim City Clerk

(SEAL)

APPROVED AS TO FORM:

BY:   
JOSE M. SANCHEZ, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2022-160**

**RESOLUTION APPROVING A FIRST AMENDMENT WITH SUN VALLEY TRANSPORT, INC., FOR THE HAULING OF NON-HAZARDOUS BRINE SERVICES, TO INCREASE THE AMOUNT BY \$208,910 FROM \$458,915, FOR A NEW TOTAL AMOUNT NOT TO EXCEED \$667,825 OVER FIVE YEARS, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE AMENDMENT**

WHEREAS, the City of Modesto operates a water treatment facility in the community of Grayson that provides safe and reliable drinking water for the residents of the community, and

WHEREAS, as part of the water treatment process, a waste brine is generated that needs to be disposed of in order to keep the Grayson treatment facility operational, but Modesto's wastewater treatment permit does not allow the disposal of this brine waste at its facility, and

WHEREAS, the City has an existing agreement with the East Bay Municipal Utility District, an approved waste disposal facility located in Oakland, California, for EBMUD to receive and dispose of brine waste, and

WHEREAS, on September 1, 2020, by Resolution No 2020-345, Council approved the award of proposal for the hauling of non-hazardous brine services to Sun Valley Transport, Inc., and

WHEREAS, City and Contractor desire to amend the Original Agreement by increasing the previously approved five-year total of \$458,915 by \$208,910, to a new amount not to exceed \$667,825 over five years, and

WHEREAS, funding is available in the current fiscal year in the Water Fund, and

WHEREAS, this item was considered by the Economic Development Committee on December 6, 2021, and forwarded to the City Council for approval.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves a First Amendment to the Original Agreement with Sun Valley Transport for the hauling of non-hazardous brine services, increasing the amount by \$208,910 from \$458,915 to a new total amount not to exceed \$667,825 over five years.

BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to execute the amendment, in a form approved by the City Attorney.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 5th day of April, 2022, by Councilmember Wright, who moved its adoption, which motion being duly seconded by Councilmember Escutia-Bratton, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Escutia-Braaton, Madrigal, Ricci,  
Wright, Mayor Zwahlen

NOES: Councilmembers: None

ABSENT: Councilmembers: Kenoyer, Zoslocki

ATTEST:   
DANA SANCHEZ, Interim City Clerk

(SEAL)

APPROVED AS TO FORM:

BY:   
JOSE M. SANCHEZ, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2022-161**

**RESOLUTION ACCEPTING THE 2016 PAVEMENT REHABILITATION PROJECT, STPL-5059(205), LA LOMA AVENUE, AS COMPLETE, AUTHORIZING ALL NECESSARY STEPS TO FILE WITH THE COUNTY RECORDER, RELEASING SECURITIES, AND RELEASING PAYMENTS TOTALING \$2,029,196 TO UNITED PAVEMENT MAINTENANCE, INC. OF HUGHSON, CA**

WHEREAS, in November of 2016, Stanislaus County voters approved a county-wide, 25-year, half-cent sales tax increase known as Measure L, and

WHEREAS, the tax increase went into effect on April 1, 2017 and the City began receiving quarterly payments commencing in July 2017. On October 4, 2016, Council approved Ordinance No. 3656-C.S. adding Chapter 10 to Title 8 of the Modesto Municipal Code to establish a Citizens' Transportation Sales Tax Commission (Citizens' Commission) consisting of eleven members appointed by the Council, and

WHEREAS, on September 4, 2018, by Resolution No. 2018-380, Council amended the approved list of projects to be funded with Measure L tax proceeds in Fiscal Year 2018-2019, and

WHEREAS, the 2016 Pavement Rehabilitation project work completed pavement rehabilitation with an asphalt rubber chip seal and asphalt overlay on La Loma Avenue from James Street to Rowland Avenue with the construction of a roundabout at the La Loma and Buena Vista intersection. Double chip seals were laid on Miller Avenue from El Vista Avenue to N Riverside Drive, Burney Street from 18<sup>th</sup> Street to Jennie Street, 17<sup>th</sup> Street from G Street to Burney Street, and Type 2 slurry seal on J Street from 9<sup>th</sup> Street to 16<sup>th</sup> Street, and

WHEREAS, bids were advertised on July 21, 2020, and were publicly opened on September 15, 2020, pursuant to Modesto Municipal Code Section 8-3.403 and Charter Section 1307, and United Pavement Maintenance, Inc., of Hughson, CA, was the apparent lowest responsible and responsive bidder, and

WHEREAS, on October 13, 2020, by Resolution No. 2020-421, Council awarded a contract to United Pavement Maintenance, Inc., of Hughson, CA., for the construction of the 2016 Pavement Rehabilitation Project, STPL-5059(205), La Loma Avenue, in the amount of \$1,880,845, and

WHEREAS, the contractor received the Notice to Proceed with a first working day of January 11, 2021. All contract work was completed by July 30, 2021, and

WHEREAS, the total project costs were \$2,650,461 which included design, construction, and construction administration costs. The total project amount originally budgeted was \$2,815,698 which included \$2,068,930 for the construction contract and contingency with United Pavement Maintenance, Inc., and

WHEREAS, the City's "Change Order Approval Policy" enacted by Council Resolution No. 94-443 on July 19, 1994, and updated by Resolution No. 2019-326 on July 9, 2019, states that a contract that exceeds \$10,000,000 allows Directors Authority only up to eight percent (8% (\$150,468)). By Resolution No. 2020-422, Council increased the Director's authority to approve change orders from 8% to 10% contingency not to exceed \$188,085 for a total amount of \$2,068,930, and

WHEREAS, there were eight change orders on this project with an overall increase of \$148,351, and

WHEREAS, by accepting this project as complete, the City officially accepts the improvements made and authorizes the Notice of Completion to be filed.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto hereby accepts the 2016 Pavement Rehabilitation project, STPL-5059(205), La Loma Avenue as complete and that the City Clerk is authorized to complete all necessary steps to file the appropriate notices and documents with the County Recorder, release securities, and authorize payments totaling \$2,029,196 to United Pavement Maintenance, Inc. of Hughson, CA.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 5th day of April, 2022, by Councilmember Wright, who moved its adoption, which motion being duly seconded by Councilmember Escutia-Bratton, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Escutia-Braaton, Madrigal, Ricci,  
Wright, Mayor Zwahlen

NOES: Councilmembers: None

ABSENT: Councilmembers: Kenoyer, Zoslocki

ATTEST:   
DANA SANCHEZ, Interim City Clerk

(SEAL)

APPROVED AS TO FORM:

BY:   
JOSE M. SANCHEZ, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2022-162**

**RESOLUTION ACCEPTING THE RIVER TRUNK EMERGENCY REPAIR AT  
7<sup>th</sup> STREET AS COMPLETE, AUTHORIZING ALL PAYMENTS TOTALING  
\$431,402 TO ROLFE CONSTRUCTION INC., OF ATWATER, CA AND  
AUTHORIZING ALL PAYMENTS TOTALING \$184,245 TO RAIN FOR RENT,  
OF STOCKTON, CALIFORNIA**

WHEREAS, on Thursday, December 23, 2021, Wastewater Collections was notified by the County Sheriff's Department of a cave-in of the River Trunk under the 7th Street Bridge, and

WHEREAS, the collapse was likely a result of multiple factors; peak flows from the December storm events, combined with the age and deteriorated condition of the River Trunk this is one of the City's main sewer trunk lines that conveys domestic wastewater to the Sutter Plant, and

WHEREAS, City staff initiated an expedited process to secure a Contractor to perform the repair, and

WHEREAS, the week of December 27th, Utilities Engineering reached out to three Contractors currently under contract with the City to determine availability to perform the repair and to request cost proposals, and

WHEREAS, the three contractors included Teichert, Mozingo and Rolfe. The scope of work was provided to each of the contractors on Tuesday, December 28, 2021 via email and each contractor was given until Thursday, December 30, 2021 to provide a cost proposal, and

WHEREAS, staff therefore recommended selection of the lowest bidder, Rolfe Construction Inc., to perform the emergency repair, and

WHEREAS, the City contracted with Rain-for-Rent separately to provide bypass pumping. The soonest Rain for Rent was available to provide services was Monday, January 3, 2022, and

WHEREAS, the sink hole gradually expanded due to saturated soil. Given the urgency of the repair and the site conditions, it was imperative that the repair occur immediately to avoid any additional safety risks or damage to adjacent infrastructure, and

WHEREAS, Section 8-3.102 (e) of the Modesto Municipal Code allows the City Manager to approve and authorize contracts for projects that are of urgent necessity for the preservation of life, health and property for staff to report to Council on the emergency repair, and

WHEREAS, the River Trunk required urgent repair in order to prevent sanitary sewer overflows, to protect the public from potential harms, as well as provide continued service, and

WHEREAS, the River Trunk Emergency Repair at 7<sup>th</sup> Street has been completed by Rolfe Construction Inc., of Atwater.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the River Trunk Emergency Repair at 7<sup>th</sup> Street is hereby accepted as complete from said contractor, Rolfe Construction Inc., of Atwater, Ca, and that all payments totaling \$431,402, are authorized to Rolfe Construction Inc., of Atwater, CA and all payments totaling \$184,245 are authorized to Rain for Rent, of Stockton, CA.

BE IT FURTHER RESOLVED that the City Manager, or his designee, is authorized to take all actions necessary to close-out the River Trunk Emergency Repair at 7<sup>th</sup> Street as complete.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 5th day of April, 2022, by Councilmember Wright, who moved its adoption, which motion being duly seconded by Councilmember Escutia-Bratton, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Escutia-Braaton, Madrigal, Ricci,  
Wright, Mayor Zwahlen

NOES: Councilmembers: None

ABSENT: Councilmembers: Kenoyer, Zoslocki

ATTEST:   
DANA SANCHEZ, Interim City Clerk

(SEAL)

APPROVED AS TO FORM:

BY:   
JOSE M. SANCHEZ, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2022-163**

**RESOLUTION AMENDING THE FISCAL YEAR 2021-22 CAPITAL  
IMPROVEMENT PROGRAM BUDGET IN THE AMOUNT OF \$558,717 TO BE  
TRANSFERRED INTO THE PROJECT FROM THE WASTEWATER FUND TO  
FULLY FUND THE CONSTRUCTION, CONTINGENCY, CONSTRUCTION  
ADMINISTRATION AND DESIGN SUPPORT DURING CONSTRUCTION FOR  
THE RIVER TRUNK EMERGENCY REPAIR AT 7<sup>TH</sup> STREET**

WHEREAS, due to the unforeseen circumstances and costs associated with the emergency repair of the River Trunk at 7<sup>th</sup> Street, certain budgetary transactions are necessary in the amount of \$558,717, in order to fully fund the construction, contingency, construction administration and design support during construction for the repair, and

WHEREAS, the Fiscal Year 2021-2022 Capital Improvement Program Budget must be amended.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the amendment of the Fiscal Year 2021-2022 Capital Improvement Program Budget in the amount of \$558,717 to be transferred into the project from Wastewater Fund Reserves.

BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to implement the provisions of this resolution.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 5th day of April, 2022, by Councilmember Wright, who moved its adoption, which motion being duly seconded by Councilmember Escutia-Bratton, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Escutia-Braaton, Madrigal, Ricci,  
Wright, Mayor Zwahlen

NOES: Councilmembers: None

ABSENT: Councilmembers: Kenoyer, Zoslocki

ATTEST:   
DANA SANCHEZ, Interim City Clerk

(SEAL)

APPROVED AS TO FORM:

BY:   
JOSE M. SANCHEZ, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2022-164**

**RESOLUTION APPROVING AN AMENDMENT TO THE AGREEMENT WITH CONSOLIDATED CM INC., FOR CONSTRUCTION MANAGEMENT, SPECIAL INSPECTION, AND MATERIALS TESTING SERVICES FOR THE BUS MAINTENANCE FACILITY PARTS STORAGE ROOM IN THE AMOUNT OF \$41,797, FOR AN AMENDED TOTAL NOT TO EXCEED AMOUNT OF \$184,512 AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE AMENDMENT**

WHEREAS, the construction of a new parts storage room building is crucial in the safety and efficiency of the Transit maintenance services, and

WHEREAS, the City of Modesto has 61 fixed routes buses and will have another 17 paratransit vans, and

WHEREAS, the current Bus Maintenance Facility does not allow sufficient storage capacity for the parts needed for the transit vehicles of vehicles, and

WHEREAS, the original facility was constructed in 2012, and the parts room was not built large enough to accommodate the parts, and

WHEREAS, in addition to the increased storage capacity that this building will provide, it will also serve as a connecting structure between the existing Bus Maintenance Facility (BMF) and the new Heavy Bay Shop, and

WHEREAS, considering the FMF Heavy Bay project and BMF Parts Storage Room project are located within the same overall facility, City staff combined these projects and bid as a single project, and

WHEREAS, due to the differing funding sources, the project involves two separate contracts for each respective facility (Fleet & Transit), and

WHEREAS, on February 25, 2020, by Resolutions No. 2020-136 approved an agreement with Consolidated CM Inc., of Oakland CA, for Construction Management,

Special Inspection, and Materials Testing Services for the Bus Maintenance Facility Parts Storage Room in an amount not to exceed \$142,715, and

WHEREAS, the project was scheduled to be complete by December 31, 2021, and

WHEREAS, unfortunately, the project experienced delays due to COVID related impacts such as facility closures and supply chain delays, and

WHEREAS, additionally, the fabricator of the metal buildings experienced weather impacts that resulted in the closure of their facility, which ultimately delayed the fabrication and delivery of the materials, and

WHEREAS, these unforeseen delays resulted in an extended construction schedule and extended construction management services and additional inspections, and

WHEREAS, construction management services and additional inspections are no longer needed, as the project is being prepared for close-out and Council acceptance, and

WHEREAS, however, staff is recommending an amendment to the agreement with Consolidated CM Inc., in the amount of \$41,797 for the BMF Parts Storage Room, to cover the additional construction management and inspection services that were required through completion of the project.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves an Amendment to the current agreement with Consolidated CM Inc., of Modesto, CA, for Design Services for the Bus Maintenance Facility Parts Storage Room Project in the amount of \$41,797, for an amended total not to exceed amount of \$184,512.

BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to execute the amendment, in a form approved by the City Attorney.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 5th day of April, 2022, by Councilmember Wright, who moved its adoption, which motion being duly seconded by Councilmember Escutia-Braaton, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Escutia-Braaton, Madrigal, Ricci,  
Wright, Mayor Zwahlen

NOES: Councilmembers: None

ABSENT: Councilmembers: Kenoyer, Zoslocki

ATTEST:   
DANA SANCHEZ, Interim City Clerk

(SEAL)

APPROVED AS TO FORM:

BY:   
JOSE M. SANCHEZ, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2022-165**

**RESOLUTION APPROVING AN AMENDMENT TO THE AGREEMENT WITH CONSOLIDATED CM INC., OF OAKLAND, CA, FOR CONSTRUCTION MANAGEMENT, TESTING AND INSPECTION SERVICES FOR THE FLEET MAINTENANCE FACILITY HEAVY BAY ADDITION IN THE AMOUNT OF \$103,818, FOR AN AMENDED TOTAL NOT TO EXCEED AMOUNT OF \$524,127 AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE AMENDMENT**

WHEREAS, the construction of a new Fleet Maintenance Facility (FMF) Heavy Bay will provide future capacity and operational efficiencies for years to come, and

WHEREAS, additionally, the safety of staff members and customers is at the forefront throughout the City, and

WHEREAS, this state-of-the-art facility will reduce potential work-related risk associated with repairs and maintenance, and

WHEREAS, considering the FMF Heavy Bay project and BMF Parts Storage Room project are located within the same overall facility, City staff combined these projects and bid as a single project. Due to the differing funding sources, the project involves two separate contracts for each respective facility (Fleet & Transit), and

WHEREAS, on February 25, 2020, by Resolutions No. 2020-135, Council also approved an agreement with Consolidated CM Inc., of Oakland CA, for Construction Management, Special Inspection, and Materials Testing Services for the Fleet Maintenance Facility Heavy Bay Addition in an amount not to exceed \$420,309, and

WHEREAS, the project was scheduled to be complete by December 31, 2021, and

WHEREAS, unfortunately, the project experienced delays due to COVID related impacts such as facility closures and supply chain delays, and

WHEREAS, additionally, the fabricator of the metal buildings experienced weather impacts that resulted in the closure of their facility, which ultimately delayed the fabrication and delivery of the materials, and

WHEREAS, these unforeseen delays resulted in an extended construction schedule and extended construction management services and additional inspections, and

WHEREAS, construction management services and additional inspections are no longer needed, as the project is being prepared for close-out and Council acceptance, and

WHEREAS, however, staff is recommending an amendment to the agreement with Consolidated CM Inc., in the amount of \$103,818 for the FMF Heavy Bay, to cover the additional construction management and inspection services that were required through completion of the project.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves an Amendment to the current agreement with Consolidated CM Inc., of Modesto, CA, for Design Services for the Fleet Maintenance Facility Heavy Bay Addition Project in the amount of \$103,818, for an amended total not to exceed amount of \$524,127.

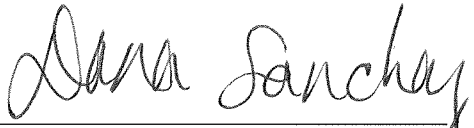
BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to execute the amendment, in a form approved by the City Attorney.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 5th day of April, 2022, by Councilmember Wright, who moved its adoption, which motion being duly seconded by Councilmember Escutia-Braaton, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Escutia-Braaton, Madrigal, Ricci,  
Wright, Mayor Zwahlen

NOES: Councilmembers: None

ABSENT: Councilmembers: Kenoyer, Zoslocki

ATTEST:   
DANA SANCHEZ, Interim City Clerk

(SEAL)

APPROVED AS TO FORM:

BY:   
JOSE M. SANCHEZ, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2022-166**

**RESOLUTION APPROVING AN AGREEMENT WITH LCP TRACKER FOR CERTIFIED PAYROLL MONITORING SOFTWARE IN THE AMOUNT OF \$18,106 FOR THE INITIAL YEAR OF IMPLEMENTATION, AND \$13,577 ANNUALLY FOR THREE YEARS, FOR A TOTAL AMOUNT NOT TO EXCEED \$58,837, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE TO EXECUTE THE AGREEMENT**

WHEREAS, the City of Modesto designs, bids, and constructs approximately 20 to 25 Capital Improvement Program (CIP) projects each year, and

WHEREAS, in typical years, roughly 20% of those projects are funded with State or Federal money and require a full labor compliance monitoring program, and

WHEREAS, this labor compliance monitoring includes both prime contractors and all subcontractors on the project, and

WHEREAS, full compliance monitoring consists of ensuring timely submission of required Apprenticeship documents, certified payrolls, and verifying that all employees are properly paid for the actual work performed, and

WHEREAS, this practice of having one individual responsible for labor compliance and keeping current with state and federal labor laws, including newly passed Senate Bills, exposes the City to liability for failing to comply should an oversight in review of documentation occur, and

WHEREAS, LCP Tracker is a cloud-based Prevailing Wage and Workforce Compliance Management Solution, and

WHEREAS, the program allows prime contractors and their subcontractors to submit certified payrolls electronically, offering a highly secure and automated process for collecting certified payroll reports, and

WHEREAS, LCP Tracker also flags any errors or discrepancies with local, state, or federal Davis-Bacon provisions, and requires the contractor to make corrections prior to accepting the submittal, saving time for the agency by reducing administrative work, and

WHEREAS, LCP Tracker is ideal for public agencies to ensure all contractors and subcontractors are compliant with prevailing wage laws, and

WHEREAS, it allows the agency and prime contractor to easily view, approve, or reject payrolls and provides immediate feedback. LCP Tracker has had over 18 years of development, and has been widely used by public agencies, and

WHEREAS, LCP Tracker dramatically reduces the risk of fines and failed audits by lessening the administrative work load and allowing more time for staff to do the investigative work necessary to confirm workers are being paid for the classification they are truly working in, and

WHEREAS, Modesto Municipal Code Section 8-3.203 generally requires all purchases that meet or exceed \$50,000 for material, equipment or contractual services to be formally bid, and

WHEREAS, however, exceptions to the formal bidding process are granted in Modesto Municipal Code (MMC) 8-3.204(d) “Where the Purchasing Manager, in his or her discretion, determines that a process other than the formal bid procedure set for in Section 8-3.203 will result in procurement for the City at the lowest possible cost commensurate with the desired quality,” and

WHEREAS, in addition, MMC 8-3.202(h) encourages the Purchasing Manager to join with the State of California and other units of government in cooperative purchasing plans when the best cost savings interest of the City would be served, and

WHEREAS, LCP Tracker software meets the requirement under this MMC due to their award from the competitive bidding process utilizing the cooperative purchasing agreement through the State of California.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves an agreement with LCP Tracker for Certified Payroll monitoring software in the amount of \$18,106 for the initial year of implementation, and \$13,577 annually for three years, for a total not to exceed amount of \$58,837.

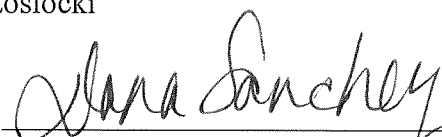
BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to execute the agreement in a form approved by the City Attorney.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 5th day of April, 2022, by Councilmember Wright, who moved its adoption, which motion being duly seconded by Councilmember Escutia-Bratton, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Escutia-Braaton, Madrigal, Ricci,  
Wright, Mayor Zwahlen

NOES: Councilmembers: None

ABSENT: Councilmembers: Kenoyer, Zoslocki

ATTEST:   
DANA SANCHEZ, Interim City Clerk

(SEAL)

APPROVED AS TO FORM:

BY:   
JOSE M. SANCHEZ, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2022-167**

**RESOLUTION APPROVING AN AGREEMENT WITH O'DELL  
ENGINEERING, MODESTO, CA, FOR ENGINEERING DESIGN SERVICES  
FOR THE SONOMA SEWER TRUNK PHASES 3 AND 4 PROJECTS IN THE  
AMOUNT OF \$72,600 FOR THE IDENTIFIED SCOPE OF SERVICES, PLUS  
\$7,260 IN ADDITIONAL SERVICES, IF NEEDED, FOR A TOTAL AMOUNT  
NOT TO EXCEED \$79,860, AND AUTHORIZING THE CITY MANAGER, OR  
HIS DESIGNEE, TO EXECUTE THE AGREEMENT**

WHEREAS, the Wastewater Collection System Master Plan identifies the Sonoma Trunk Extensions and Lift Station as a system that must be constructed to serve future development of the Roselle/Claribel Comprehensive Planning District located in the northeast area of the City, and

WHEREAS, within this area is the proposed Tivoli Development, which currently has two phases in the Tentative Map phase and will require construction of the Sonoma Trunk Extensions, and

WHEREAS, the first phase of the Sonoma Trunk Extension has been constructed along Sylvan Avenue, from Wood Sorrel Drive to Aria Way, and

WHEREAS, the second phase, which includes the lift station and sewer main improvements along Oakdale Road, is currently in the final design phase and is anticipated to begin construction in the summer of 2022, and

WHEREAS, Phases 3 and 4, along the future Aria Way need to be designed, constructed, and coordinated with the anticipated development projects, and

WHEREAS, O'Dell Engineering (O'Dell) has been involved with preliminary engineering studies for the Tivoli Development and has assisted the City as well as the development groups, and

WHEREAS, O'Dell's involvement with the Tivoli Development and familiarity and knowledge of City Standards, provides them with the project understanding that will benefit the design of the proposed Sonoma Sewer Trunk Phase 3 and 4 projects, and

WHEREAS, O'Dell has rendered satisfactory services with the City on previous projects which includes the Sutter Trunk Rehabilitation and Highway Village Strengthen and Replace Water mains projects, and

WHEREAS, in accordance with Modesto Municipal Code Sec. 8-3.204(a), Exceptions to Formal Bidding Requirements, the agreement is for professional services and, therefore, exempt from the bidding requirement, and

WHEREAS, the approval for the Engineering Design Services to O'Dell Engineering conforms to Modesto Municipal Code 8-3.204, subsection (a) as they are providing professional services for Engineering Design Services for the Sonoma Sewer Trunk Phases 3 and 4 projects and have been involved with the Tivoli Development and are familiar and knowledgeable of City Standards that will provide project efficiencies.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves an agreement with O'Dell Engineering, Modesto, CA, for Engineering Design Services for the Sonoma Sewer Trunk Phases 3 and 4 Projects in the amount of \$72,600.00 for the identified scope of services, plus \$7,260.00 in additional services, if needed, for a total not to exceed amount of \$79,860.00


BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to execute the agreement in a form approved by the City Attorney.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 5th day of April, 2022, by Councilmember Wright, who moved its adoption, which motion being duly seconded by Councilmember Escutia-Bratton, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Escutia-Braaton, Madrigal, Ricci,  
Wright, Mayor Zwahlen

NOES: Councilmembers: None

ABSENT: Councilmembers: Kenoyer, Zoslocki

ATTEST:   
DANA SANCHEZ, Interim City Clerk

(SEAL)

APPROVED AS TO FORM:

BY:   
JOSE M. SANCHEZ, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2022-168**

**RESOLUTION APPROVING PLANS AND SPECIFICATIONS FOR THE HIGHWAY VILLAGE STRENGTHEN & REPLACE WATER MAINS PROJECT, ACCEPTING THE BID, AND APPROVING A CONSTRUCTION CONTRACT WITH ROLFE CONSTRUCTION INC., OF ATWATER, CA, IN THE AMOUNT OF \$4,074,366 PLUS \$407,437 FOR CONTINGENCY (IF NEEDED) FOR A TOTAL AMOUNT NOT TO EXCEED \$4,481,803 AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE AGREEMENT**

WHEREAS, the Highway Village Strengthen & Replace Water Mains project will replace and upgrade deficient water mains, associated water valves, services and fire hydrants to increase service reliability and improved flows and pressures, and

WHEREAS, the project will involve the relocation of approximately 200+ water services. The existing water services are currently located in the back of the properties and connected to existing water mains located in the alley ways. The new water mains will be installed in the streets fronting the properties which will result in new water services being installed in the front of the properties, and

WHEREAS, the Project was advertised for bids on January 4, 2022, and

WHEREAS, on February 1, 2022, Bids were publicly opened, pursuant to City Charter Section 1307, one bid was received and Rolfe Construction Inc., of Atwater, CA, was the responsible bidder with the lowest responsive bid, and

WHEREAS, MMC 8-3.203 states that all purchases, in excess of fifty thousand dollars (\$50,000), or when directed by the City Manager for any purchase of fifty thousand dollars (\$50,000) or less, shall follow formal bid procedures, and

WHEREAS, and the award of bid for the Highway Village Strengthen & Replace Water Mains Project conforms to the Modesto Municipal code based on providing the overall lowest cost, while providing improved service, and

WHEREAS, the Director of Utilities has recommended that the bid of \$4,074,366 received from Rolfe Construction Inc., of Atwater, CA, be accepted as the lowest responsible and responsive bid and the contract be awarded to Rolfe Construction Inc., of Atwater, CA.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the plans and specifications for the Highway Village Strengthen & Replace Water Mains Project and accepts the bid of \$4,074,366 plus \$407,437 for contingency (if needed) for a total amount not to exceed \$4,481,803 and award Rolfe Construction Inc., of Atwater, CA, the contract for the Highway Village Strengthen & Replace Water Mains Project.

BE IT FURTHER RESOLVED that the Highway Village Strengthen & Replace Water Mains Project is categorically exempt from California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines Section 15301(b) exemption for existing utility facilities.

BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to execute the contract, in a form approved by the City Attorney.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 5th day of April, 2022, by Councilmember Wright, who moved its adoption, which motion being duly seconded by Councilmember Escutia-Bratton, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Escutia-Braaton, Madrigal, Ricci,  
Wright, Mayor Zwahlen

NOES: Councilmembers: None

ABSENT: Councilmembers: Kenoyer, Zoslocki

ATTEST:   
DANA SANCHEZ, Interim City Clerk

(SEAL)

APPROVED AS TO FORM:

BY:   
JOSE M. SANCHEZ, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2022-169**

**RESOLUTION AUTHORIZING AN INCREASE IN THE DIRECTOR'S  
AUTHORITY TO ISSUE CHANGE ORDERS FOR THE HIGHWAY VILLAGE  
STRENGTHEN & REPLACE WATER MAINS PROJECT FROM 8% (\$325,949)  
TO 10% (\$407,437) OF THE CONSTRUCTION CONTRACT AMOUNT OF  
\$4,074,366 WITH ROLFE CONTRUCTION INC., OF ATWATER, CA**

WHEREAS, the City's "Change Order Approval Policy", enacted by Council Resolution No. 94-443 on July 19, 1994, and updated by Resolution No. 2019-326 on July 9, 2019, established a contract change order budget of 8% for projects over \$1 Million, and

WHEREAS, given the nature of rehabilitation projects where unforeseen utilities or buried structures, and other unaccounted for issues may arise, additional work may be needed to address unexpected conditions that require changes in the project scope that may exceed the Director's Authority of 8% (\$325,949) of the contract amount of \$4,074,366, and

WHEREAS, staff is requesting authorization to increase the Directors authority to issue change orders to 10% (\$407,437) of the contract amount of \$4,074,366 due to the nature of the project and the unknown challenges.

NOW, THEREFORE BE IT RESOLVED by the Council of the City of Modesto that it hereby authorizes the Director of Utilities to issue change orders for the Highway Village Strengthen and Replace Water Mains Project from 8% (\$325,949) to 10% (\$407,437) of the construction contract price of \$4,074,366 with Rolfe Construction Inc., of Atwater, CA.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 5th day of April, 2022, by Councilmember Wright, who moved its adoption, which motion being duly seconded by Councilmember Escutia-Bratton, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Escutia-Braaton, Madrigal, Ricci,  
Wright, Mayor Zwahlen

NOES: Councilmembers: None

ABSENT: Councilmembers: Kenoyer, Zoslocki

ATTEST:   
DANA SANCHEZ, Interim City Clerk

(SEAL)

APPROVED AS TO FORM:

BY:   
JOSE M. SANCHEZ, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2022-170**

**RESOLUTION APPROVING AN AGREEMENT WITH TRC ENGINEERS, INC., OF LATHROP, CA, FOR CONSTRUCTION MANAGEMENT AND INSPECTION SERVICES FOR THE HIGHWAY VILLAGE STRENGTHEN & REPLACE WATER MAINS PROJECT, IN AN AMOUNT NOT TO EXCEED \$637,000 FOR THE IDENTIFIED SCOPE OF SERVICES, PLUS \$63,700 FOR ADDITIONAL SERVICES (IF NEEDED) FOR A TOTAL AMOUNT NOT TO EXCEED \$700,700 AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE TO EXECUTE THE AGREEMENT**

WHEREAS, due to the overall size of the Highway Village Strengthen & Replace Water Mains Project, with respect to neighborhood area and anticipated coordination efforts with property owners, and the amount of time for the completion of this project, staff recommends utilizing consultants to provide Construction Management, Inspections, Materials Testing and Public Outreach services for the anticipated 10-month construction period, and

WHEREAS, due to limited staffing resources and current workload, consultant assistance is necessary for proper project coverage and construction oversight, and

WHEREAS, in accordance with Modesto Municipal Code 8-3.204(a), agreements for professional services are exempt from the formal bidding requirements of Modesto Municipal Code 8-3.203, and

WHEREAS, the selection process followed the City's policy, Administrative Directive 3.1, Selection Procedures for Professional Consultants Who Provide Architectural and Engineering Services for Capital Projects, and

WHEREAS, Administrative Directive 3.1 allows for a selection of a consulting firm if in the best interest of the City and if the firm has rendered satisfactory services with the City, and

WHEREAS, TRC Engineers, Inc., has provided assistance with Construction Management and Inspection Services for various City projects including the Roosevelt Park Storm Drain project, Village One Slurry Seal project and the Tully Road Pavement Rehabilitation project and has rendered quality service with respect to coordination with staff, the public and the contractor, as well as efficient construction management, and

WHEREAS, staff recommends approval of an agreement with TRC Engineers, Inc., for the Highway Village Strengthen & Replace Water Mains Project, to increase project delivery efficiencies.

NOW, THEREFORE BE IT RESOLVED, by the Council of the City of Modesto that it hereby approves an Agreement with TRC Engineers, Inc., in the amount of \$637,000, plus \$63,700 in additional services (if needed), for a total amount not to exceed \$700,700 for Construction Management and Inspection Services for the Highway Village Strengthen & Replace Water Mains Project.

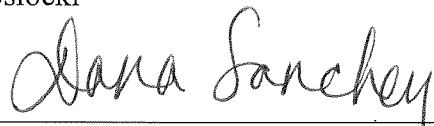
BE IT FURTHER RESOLVED, that the City Manager, or his designee, is hereby authorized to execute the agreement in a form approved by the City Attorney.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 5th day of April, 2022, by Councilmember Wright, who moved its adoption, which motion being duly seconded by Councilmember Escutia-Bratton, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Escutia-Braaton, Madrigal, Ricci,  
Wright, Mayor Zwahlen

NOES: Councilmembers: None

ABSENT: Councilmembers: Kenoyer, Zoslocki

ATTEST:   
DANA SANCHEZ, Interim City Clerk

(SEAL)

APPROVED AS TO FORM:

BY:   
JOSE M. SANCHEZ, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2022-171**

**RESOLUTION AMENDING THE FISCAL YEAR 2021-22 CAPITAL IMPROVEMENT PROGRAM BUDGET IN THE AMOUNT OF \$1,787,746 TO BE TRANSFERRED INTO THE PROJECT FROM THE WATER FUND IN ORDER TO FULLY FUND THE CONSTRUCTION, CONTINGENCY, CONSTRUCTION ADMINISTRATION AND DESIGN SUPPORT DURING CONSTRUCTION FOR THE HIGHWAY VILLAGE STRENGTHEN & REPLACE WATER MAINS PROJECT AND AUTHORIZING THE CITY MANAGER OR HIS DESIGNEE TO IMPLEMENT THE PROVISIONS OF THIS RESOLUTION**

WHEREAS, on February 1, 2022, bids were publicly opened, pursuant to City Charter Section 1307, one bid was received, and

WHEREAS, due to the size of the project, with respect to project limits and associated construction costs, certain budgetary transactions are necessary in the amount of \$1,787,746, in order to fully fund the construction, contingency, construction administration and design support during construction for the Highway Village Strengthen & Replace Water Mains Project, and

WHEREAS, the Fiscal Year 2021-2022 Capital Improvement Program Budget must be amended.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the amendment of the Fiscal Year 2021-2022 Capital Improvement Program Budget in the amount of \$1,787,746 to be transferred into the project from Water Fund Reserves.

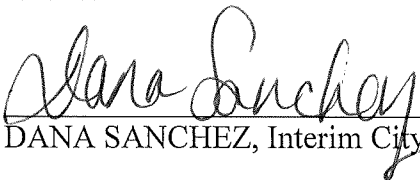
BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to implement the provisions of this resolution.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 5th day of April, 2022, by Councilmember Wright, who moved its adoption, which motion being duly seconded by Councilmember Escutia-Bratton, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Escutia-Braaton, Madrigal, Ricci,  
Wright, Mayor Zwahlen

NOES: Councilmembers: None

ABSENT: Councilmembers: Kenoyer, Zoslocki

ATTEST:   
DANA SANCHEZ, Interim City Clerk

(SEAL)

APPROVED AS TO FORM:

BY:   
JOSE M. SANCHEZ, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2022-172**

**RESOLUTION AUTHORIZING THE SUBMITTAL OF A GRANT  
APPLICATION TO THE CALIFORNIA DEPARTMENT OF WATER  
RESOURCES' URBAN AND MULTI-BENEFIT DROUGHT RELIEF GRANT  
PROGRAM FOR THE WELL 312 TREATMENT SYSTEM & FLUSH LINE  
PROJECT**

WHEREAS, the California Budget Act of 2021 allocated \$300 million to the Department of Water Resources to deliver grants for interim and immediate drought relief to urban communities and for multi-benefit projects, and

WHEREAS, this project will benefit an economically distressed area by providing a variety of water supply sources to meet all current and future water demands under various hydrologic conditions, and

WHEREAS, the City is seeking \$1 million in grant funding to help cover expenses associated with the Well 312 Treatment System and Flush Line Project.


NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby authorizes the submittal of a grant application to the California Department of Water Resources' Urban and Multi-Benefit Relief Grant Program for the Well 312 Treatment System and Flush Line Project.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 5th day of April, 2022, by Councilmember Wright, who moved its adoption, which motion being duly seconded by Councilmember Escutia-Bratton, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Escutia-Braaton, Madrigal, Ricci,  
Wright, Mayor Zwahlen

NOES: Councilmembers: None

ABSENT: Councilmembers: Kenoyer, Zoslocki

ATTEST:   
DANA SANCHEZ, Interim City Clerk

(SEAL)

APPROVED AS TO FORM:

BY:   
JOSE M. SANCHEZ, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2022-173**

**RESOLUTION APPROVING AN INCREASE OF PURCHASE WITH ALLSTEEL INC., MUSCATINE, IA, FOR THE PROCUREMENT OF MODULAR SYSTEMS FURNITURE FOR THE SUTTER PLANT OFFICES BY \$40,787 FROM \$45,157, PLUS \$4,078 IN CONTINGENCY (IF NEEDED) FOR A REVISED TOTAL AMOUNT NOT TO EXCEED \$90,022, AND AUTHORIZING THE PURCHASING MANAGER, OR HER DESIGNEE TO EXECUTE THE PURCHASE ORDER**

WHEREAS, the City's Primary Treatment Plant (Sutter Plant) serves as the main office for the Wastewater Division, which includes Wastewater Operations and Maintenance as well as Environmental Compliance Services, and

WHEREAS, recent staffing and organizational adjustments, along with aged office furniture that does not meet current ergonomic requirements have led to modifications and modernization of the modular systems furniture within the offices, and

WHEREAS, on October 24, 2016, the State of California's Department of General Services Procurement Division entered into Contract No.1-16-71-52 with Allsteel Inc. to provide Modular Systems Furniture to the State of California, and

WHEREAS, under the terms of the contract local government agencies are extended the same rights and privileges as the State, and

WHEREAS, Allsteel, Inc. was initially contracted to supply the modular systems furniture for the Environmental Compliance Services Offices; and

WHEREAS, considerations for additional modular systems furniture for the SCADA and Administrative Offices were then also recommended.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves an increase in purchase with Allsteel, Inc., Muscatine, IA, for the procurement of modular systems furniture for the Sutter Plant Offices by \$40,787 from

\$45,157, plus \$4,078 in contingency (if needed) for a revised total amount not to exceed \$90,022.

BE IT FURTHER RESOLVED that the Purchasing Manager, or her designee, is hereby authorized to execute the purchase order.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 5th day of April, 2022, by Councilmember Wright, who moved its adoption, which motion being duly seconded by Councilmember Escutia-Bratton, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Escutia-Braaton, Madrigal, Ricci,  
Wright, Mayor Zwahlen

NOES: Councilmembers: None

ABSENT: Councilmembers: Kenoyer, Zoslocki

ATTEST:   
DANA SANCHEZ, Interim City Clerk

(SEAL)

APPROVED AS TO FORM:

BY:   
JOSE M. SANCHEZ, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2022-174**

**RESOLUTION APPROVING PLANS AND SPECIFICATIONS FOR THE RIVER TRUNK REALIGNMENT SHACKELFORD PUMP STATION PROJECT, ACCEPTING THE BID, AND APPROVING A CONSTRUCTION CONTRACT WITH MOUNTAIN CASCADE INC, OF LIVERMORE, CA, IN THE AMOUNT OF \$10,156,821 PLUS \$1,015,682 IN CONTINGENCY (IF NEEDED), FOR A TOTAL AMOUNT NOT TO EXCEED \$11,172,503 AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE AGREEMENT**

WHEREAS, the current location of the River Trunk, adjacent to the Tuolumne River, poses access limitations to operations staff and could be subject to catastrophic damage in the event of elevated river flows, and

WHEREAS, as part of the River Trunk Realignment Project, the proposed Shackelford Pump Station will pump the flow that currently flows by gravity through the existing Shackelford Siphon into the existing River Trunk line to the new River Trunk line that is going to be installed down Colorado Ave as part of the River Trunk Realignment Gravity System, which is currently under construction, and

WHEREAS, the Project was advertised for bids on October 26, 2021, and

WHEREAS, on January 25, 2022, bids were publicly opened, pursuant to City Charter Section 1307, five bids were received and Mountain Cascade Inc, of Livermore, CA, was the responsible bidder with the lowest responsive bid, and

WHEREAS, MMC 8-3.203 states that all purchases, in excess of fifty thousand dollars (\$50,000), or when directed by the City Manager for any purchase of fifty thousand dollars (\$50,000) or less, shall follow formal bid procedures, and

WHEREAS, the award of bid for the River Trunk Realignment Shackelford Pump Station Project conforms to the Modesto Municipal code based on providing the overall lowest cost, while providing improved service, and

WHEREAS, the Director of Utilities has recommended that the bid of \$10,156,821 received from Mountain Cascade Inc, of Livermore, CA, be accepted as the lowest responsible and responsive bid and the contract be awarded to Mountain Cascade Inc, of Livermore, CA.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the plans and specifications for the River Trunk Realignment Shackelford Pump Station Project and accepts the bid of \$10,156,821 plus \$1,015,682 for contingency (if needed) for a total amount not to exceed \$11,172,503 and award Mountain Cascade Inc, of Livermore, CA, the contract for the River Trunk Realignment Shackelford Pump Station Project.

BE IT FURTHER RESOLVED that the River Trunk Realignment Shackelford Pump Station Project is within the scope of 2017 Wastewater Master Plan Environmental Impact Report (EIR) (SCH # 2016062033) certified by Council on January 28, 2020. No new information of substantial importance has been discovered requiring revisions to the impacts, mitigation measures or alternatives that were provide in the EIR. Additionally, there has not been any substantial changes with respect to City policies or requirements that would require additional environmental analysis. All adopted mitigation measures identified in the EIR continue to apply.

BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to execute the contract, in a form approved by the City Attorney.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 5th day of April, 2022, by Councilmember Wright, who moved its adoption, which motion being duly seconded by Councilmember Escutia-Bratton, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Escutia-Braaton, Madrigal, Ricci,  
Wright, Mayor Zwahlen

NOES: Councilmembers: None

ABSENT: Councilmembers: Kenoyer, Zoslocki

ATTEST:   
DANA SANCHEZ, Interim City Clerk

(SEAL)

APPROVED AS TO FORM:

BY:   
JOSE M. SANCHEZ, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2022-175**

**RESOLUTION AUTHORIZING AN INCREASE IN THE DIRECTOR'S  
AUTHORITY TO ISSUE CHANGE ORDERS FOR THE RIVER TRUNK  
REALIGNMENT SHACKELFORD PUMP STATION PROJECT FROM 6%  
(\$609,409) TO 10% (\$1,015,682) OF THE CONSTRUCTION CONTRACT PRICE  
OF \$10,156,821 WITH MOUNTAIN CASCADE INC, OF LIVERMORE, CA**

WHEREAS, the City's "Change Order Approval Policy", enacted by Council Resolution No. 94-443 on July 19, 1994, and updated by Resolution No. 2019-326 on July 9, 2019, established a contract change order budget of 6% for projects over \$10 Million, and

WHEREAS, given the nature and complexity of this project with deep shoring and excavation for the Pump Station, additional work may be needed to address unexpected conditions that require changes in the project scope that may exceed the Director's Authority of 6% (\$609,409) of the contract amount of \$10,156,821, and

WHEREAS, staff is requesting authorization to increase the Directors authority to issue change orders to 10% (\$1,015,682) of the contract amount of \$10,156,821 due to the nature of the project and the unknown challenges.


NOW, THEREFORE BE IT RESOLVED by the Council of the City of Modesto that it hereby authorizes the Director of Utilities to issue change orders for River Trunk Realignment Shackelford Pump Station Project from 6% (\$609,409) to 10% (\$1,015,682) of the construction contract price of \$10,156,821 with Mountain Cascade Inc, of Livermore, CA.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 5th day of April, 2022, by Councilmember Wright, who moved its adoption, which motion being duly seconded by Councilmember Escutia-Bratton, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Escutia-Braaton, Madrigal, Ricci,  
Wright, Mayor Zwahlen

NOES: Councilmembers: None

ABSENT: Councilmembers: Kenoyer, Zoslocki

ATTEST:   
DANA SANCHEZ, Interim City Clerk

(SEAL)

APPROVED AS TO FORM:

BY:   
JOSE M. SANCHEZ, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2022-176**

**RESOLUTION APPROVING AN AGREEMENT WITH WEST YOST ASSOCIATES, OF DAVIS, CA, FOR CONSTRUCTION MANAGEMENT SERVICES FOR THE RIVER TRUNK REALIGNMENT SHACKELFORD PUMP STATION PROJECT IN AN AMOUNT NOT TO EXCEED \$1,495,674 FOR THE IDENTIFIED SCOPE OF SERVICES, PLUS \$149,567 FOR ADDITIONAL SERVICES (IF NEEDED), FOR A TOTAL AMOUNT NOT TO EXCEED \$1,645,241 AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE TO EXECUTE THE AGREEMENT**

WHEREAS, on March 22, 2016, by Resolution No. 2016-125, Council approved an agreement with Carollo Engineers, Inc. for the preparation of Final Design Services to complete the design and construction documents for the River Trunk Realignment project, and

WHEREAS, given the cost and different components of the overall project, staff determined the best approach was to separate the project into three separate projects, and

WHEREAS, due to the size and complexity of this project, staff recommends utilizing consultants to provide construction management and inspection services as well as design support during construction, and

WHEREAS, on March 28, 2020, by Resolution No. 2020-201, Council approved a pre-qualified consultant list for Construction Management and Inspection Services for various Capital Improvement Program projects, and

WHEREAS, on May 29, 2020, a Request for Proposals (RFP) was issued for Projects 2 and 3, to the City's five prequalified firms who provide Construction Management and Inspection Services, and

WHEREAS, staff received proposals from four firms, and

WHEREAS, in accordance with Modesto Municipal Code 8-3.204(a) Exceptions to Formal Bidding Requirements, this agreement is for professional services and, therefore, exempt from the bid requirement. However, staff proceeded with the RFP process pursuant to Administrative Directive 3.1 and recommends approval of an agreement with West Yost Associates, for Construction Management and Inspection Services for the River Trunk Realignment Shackelford Pump Station Project.

NOW, THEREFORE BE IT RESOLVED, by the Council of the City of Modesto that it hereby approves an Agreement with West Yost Associates, in the amount of \$1,495,674, plus \$149,567 in additional services (if needed), for a total amount not to exceed \$1,645,241 for Construction Management and Inspection Services for the River Trunk Realignment Shackelford Pump Station Project.

BE IT FURTHER RESOLVED, that the City Manager, or his designee, is hereby authorized to execute the agreement in a form approved by the City Attorney.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 5th day of April, 2022, by Councilmember Wright, who moved its adoption, which motion being duly seconded by Councilmember Escutia-Bratton, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Escutia-Braaton, Madrigal, Ricci,  
Wright, Mayor Zwahlen


NOES: Councilmembers: None

ABSENT: Councilmembers: Kenoyer, Zoslocki

ATTEST:   
DANA SANCHEZ, Interim City Clerk

(SEAL)

APPROVED AS TO FORM:

BY:   
JOSE M. SANCHEZ, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2022-177**

**RESOLUTION APPROVING AN AGREEMENT WITH CAROLLO ENGINEERS, INC., OF WALNUT CREEK, CA, FOR ENGINEERING SUPPORT DURING CONSTRUCTION FOR THE RIVER TRUNK REALIGNMENT SHACKELFORD PUMP STATION PROJECT, IN AN AMOUNT NOT TO EXCEED \$1,182,608 FOR THE IDENTIFIED SCOPE OF SERVICES, PLUS \$118,261 FOR ADDITIONAL SERVICES (IF NEEDED) FOR A TOTAL AMOUNT NOT TO EXCEED \$1,300,869 AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE TO EXECUTE THE AGREEMENT**

WHEREAS, on April 4<sup>th</sup>, 2014, by Resolution No. 2014-121, Council approved an agreement with Carollo Engineers, Inc., (Carollo) for the preparation of a Preliminary Design Report, which serves as the basis of design for the Project, and

WHEREAS, on March 22<sup>nd</sup>, 2016 by Resolution No. 2016-125, Council approved an agreement with Carollo for Final Design Services for the River Trunk Realignment Project, and

WHEREAS, considering the size and complexity of the River Trunk Shackelford Pump Station project, and that Carollo is the Engineer-of-Record for the project, Engineering Support During Construction will be needed from Carollo to ensure construction of the facilities meets the original design described in the plans and specifications, and

WHEREAS, Administrative Directive 3.1 allows for an accelerated selection process, if in the best interest of the City, where a consultant may be secured for specific projects to provide professional services, and

WHEREAS, in accordance with Modesto Municipal Code 8-3.204 Exceptions to Formal Bidding Requirements, this agreement is for professional services and, therefore, exempt from the bid requirement.

NOW, THEREFORE BE IT RESOLVED by the Council of the City of Modesto that it hereby approves an agreement with Carollo Engineers, Inc., for Engineering Support During Construction for the River Trunk Realignment Shackelford Pump Station Project in an amount not to exceed \$1,182,608 for the identified scope of services, plus \$118,261 for additional services, if needed, for a maximum total amount of \$1,300,869.


BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to execute the agreement, in a form approved by the City Attorney.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 5th day of April, 2022, by Councilmember Wright, who moved its adoption, which motion being duly seconded by Councilmember Escutia-Bratton, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Escutia-Braaton, Madrigal, Ricci,  
Wright, Mayor Zwahlen

NOES: Councilmembers: None

ABSENT: Councilmembers: Kenoyer, Zoslocki

ATTEST:   
DANA SANCHEZ, Interim City Clerk

(SEAL)

APPROVED AS TO FORM:

BY:   
JOSE M. SANCHEZ, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2022-178**

**RESOLUTION AMENDING THE FISCAL YEAR 2021-22 CAPITAL IMPROVEMENT PROGRAM BUDGET IN THE AMOUNT OF \$14,593,613 TO BE TRANSFERRED INTO THE PROJECT FROM WASTEWATER RESERVES TO FULLY FUND THE CONSTRUCTION, CONTINGENCY, CONSTRUCTION ADMINISTRATION AND DESIGN SUPPORT DURING CONSTRUCTION FOR THE RIVER TRUNK REALIGNMENT SHACKELFORD PUMP STATION PROJECT AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO IMPLEMENT THE PROVISIONS OF THIS RESOLUTION**

WHEREAS, on January 25, 2022, bids were publicly opened, pursuant to City Charter Section 1307, and

WHEREAS, five bids were received, and

WHEREAS, due to the size and complexity of the project and the associated construction costs, certain budgetary transactions are necessary in the amount of \$14,593,613 in order to fully fund the construction, contingency, construction administration and design support during construction for the River Trunk Realignment Shackelford Pump Station Project, and

WHEREAS, the Fiscal Year 2021-22 Capital Improvement Program Budget must be amended.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the amendment of the Fiscal Year 2021-22 Capital Improvement Program Budget in the amount of \$14,593,613 to be transferred into the project from Wastewater Fund Reserves.

BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to implement the provisions of this resolution.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 5th day of April, 2022, by Councilmember Wright, who moved its adoption, which motion being duly seconded by Councilmember Escutia-Bratton, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Escutia-Braaton, Madrigal, Ricci,  
Wright, Mayor Zwahlen

NOES: Councilmembers: None

ABSENT: Councilmembers: Kenoyer, Zoslocki

ATTEST:   
DANA SANCHEZ, Interim City Clerk

(SEAL)

APPROVED AS TO FORM:

BY:   
JOSE M. SANCHEZ, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2022-179**

**RESOLUTION APPROVING PROFESSIONAL SERVICES AGREEMENT  
WITH SJOBERG EVASHENK CONSULTING, INC., SACRAMENTO, CA, TO  
PROVIDE AUDITING SERVICES ON AN AS NEEDED BASIS FOR AN  
ANNUAL ESTIMATED AMOUNT OF \$130,000 FOR A TWO-YEAR  
CONTRACT IN AN AMOUNT NOT TO EXCEED \$260,000, AND  
AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE  
THE AGREEMENT**

WHEREAS, the City Council authorized the Human Resources Department to issue a Request for Proposals (RFP) for the furnishing of Auditing Services, and

WHEREAS, Human Resources sent the RFP for Auditing Services to six (6) prospective proposers, and

WHEREAS, following the request, five firms presented proposals to provide Auditing Services, and

WHEREAS, Modesto Municipal Code Section 8-3.203 generally requires all purchases, which meet or exceed \$50,000 for material, equipment or contractual services to follow the formal bid procedures. The award of this proposal to Sjoberg Evashenk Consulting, Inc conforms to the Modesto Municipal Code because the City complied with the formal bid procedures and Sjoberg Evashenk Consulting was the overall highest ranking based on the scoring criteria. Furthermore, Modesto Municipal Code Section 8-3.204(a) exempts contracts for professional services from the requirement for formal bidding, and

WHEREAS, the award of proposal for the furnishing of Auditing Services for Citywide use to Sjoberg Evashenk, Inc., Sacramento, CA, conforms to Modesto Municipal Code 8-3.103.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves Professional Services Agreements with Sjoberg Evashenk, Inc., Sacramento, CA, to provide Auditing Services on an as needed basis for an annual estimated amount of \$130,000 for a two-year contract in an amount not to exceed \$260,000.

BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to execute the agreement, in a form approved by the City Attorney.

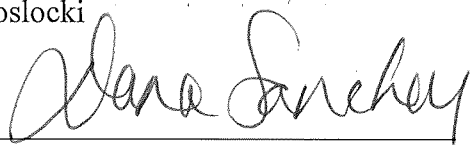
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 5th day of April, 2022, by Councilmember Wright, who moved its adoption, which motion being duly seconded by Mayor Zwahlen, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Escutia-Braaton, Madrigal, Ricci,  
Wright, Mayor Zwahlen

NOES: Councilmembers: None

ABSENT: Councilmembers: Kenoyer, Zoslocki

ATTEST:

  
DANA SANCHEZ, Interim City Clerk

(SEAL)

APPROVED AS TO FORM:

BY:

  
JOSE M. SANCHEZ, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2022-180**

**RESOLUTION APPOINTING DIANE NAYARES-PEREZ AS CITY CLERK,  
APPROVING A CITY CLERK EMPLOYMENT AGREEMENT WITH DIANE  
NAYARES-PEREZ FOR SERVICE AS CITY CLERK, SETTING TERMS OF  
EMPLOYMENT, SALARY AND BENEFITS, AND AUTHORIZING THE  
MAYOR TO EXECUTE THE AGREEMENT**

WHEREAS, on August 30, 2021, Council authorized the Human Resources Department to issue a Request for Quotes for recruitment services to fill the position of City Clerk which became vacant October 5, 2021 due to retirement; and

WHEREAS, the request was sent to the recruitment firms through which the City currently has contracts; and

WHEREAS, the City received quotes from three of the five firms under contract and chose Avery and Associates based on availability and proposed timeline for completion; and

WHEREAS, Ms. Diane Nayares-Perez applied for the position, was screened by Avery & Associates Consulting and interviewed by the City Council; and

WHEREAS, following the selection process, Council reported out of closed session that it had given instructions to negotiate an employment agreement for City Clerk services.

NOW, THEREFORE, BE IT RESOLVED, by the Council of the City of Modesto that it hereby appoints Diane Nayares-Perez as City Clerk, approves a City Clerk Employment Agreement with Diane Nayares-Perez for service as City Clerk, and sets terms of employment, salary and benefits as shown in the attached Employment Agreement.

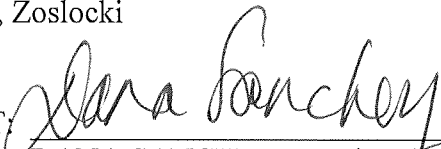
BE IT FURTHER RESOLVED, that the Mayor is hereby authorized to execute the Agreement.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 5th day of April, 2022, by Councilmember Wright, who moved its adoption, which motion being duly seconded by Councilmember Escutia-Bratton, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Escutia-Braaton, Madrigal, Ricci,  
Wright, Mayor Zwahlen

NOES: Councilmembers: None

ABSENT: Councilmembers: Kenoyer, Zoslocki

ATTEST:   
DANA SANCHEZ, Interim City Clerk

(SEAL)

APPROVED AS TO FORM:

BY:   
JOSE M. SANCHEZ, City Attorney

## EMPLOYMENT AGREEMENT

This EMPLOYMENT AGREEMENT (this “Agreement”), made and entered into this \_\_\_\_ day of April, 2022, by and between the CITY OF MODESTO, State of California, a municipal corporation (“CITY”), and Diane Nayares-Perez (“EMPLOYEE”), both of whom understand as follows:

### RECITALS:

WHEREAS, Section 900 of the CITY’s Charter provides that the City Clerk of Modesto, California (“City Clerk”), shall be appointed by and serve at the pleasure of the City Council of the City of Modesto (“COUNCIL”), and

WHEREAS, CITY desires to employ the services of EMPLOYEE as City Clerk of the City of Modesto as provided by said City Charter, and

WHEREAS, COUNCIL desires to employ EMPLOYEE as City Clerk and to provide certain benefits, establish certain conditions of employment and set working conditions of EMPLOYEE, and

WHEREAS, EMPLOYEE desires to serve as City Clerk, and

WHEREAS, it is the desire of the parties hereto to provide the terms and conditions by which CITY shall receive and retain the services of EMPLOYEE and to provide for her to remain in such employment, to act as a deterrent against malfeasance or dishonesty for personal gain on her part; and to provide for terminating her services at such time as she may be unable to fully discharge her duties or when COUNCIL may otherwise desire to terminate her employment.

**SECTION 1. Duties**

CITY hereby agrees to employ said Diane Nayares-Perez as City Clerk of said CITY to perform the functions and duties specified in Section 901 of the Modesto City Charter and to perform other legally permissible and proper duties and functions as COUNCIL shall from time to time assign. Nothing in this Agreement shall supersede the requirements of the Modesto City Charter.

**SECTION 2. Term**

a. Effective April 26, 2022, EMPLOYEE shall fulfill the powers, functions, and duties of City Clerk and shall serve in this capacity until such time as this Agreement is terminated pursuant to Section 3, below.

b. Nothing in this Agreement shall prevent, limit, or otherwise interfere with the right of COUNCIL to terminate the services of EMPLOYEE at any time subject only to the provisions set forth in Section 3, below.

c. Nothing in this Agreement shall prevent, limit, or otherwise interfere with the right of EMPLOYEE to resign at any time from her position as City Clerk, subject only to the provisions as set forth in Section 3, below.

d. EMPLOYEE agrees to remain in exclusive employ of CITY and neither to accept other employment nor become employed by any other employer until this Agreement is terminated. Recognizing that certain outside consulting or teaching opportunities provide indirect benefits to Employer and the community, Employee may elect, with the prior written approval of the Mayor, and written notification to the full Council, to accept limited teaching, consulting or other business opportunities with the

understanding that such arrangements shall not constitute interference with nor a conflict of interest with his responsibilities under this Agreement.

**SECTION 3. Termination and Severance**

a. EMPLOYEE is an at-will employee who shall serve at the pleasure of the COUNCIL. EMPLOYEE may terminate this Agreement, with or without cause, by giving the CITY sixty (60) days written notice in advance of termination unless the Parties agree otherwise. During the notice period, all the rights and obligations of the Parties under this Agreement shall remain in full force and effect. EMPLOYEE will not receive any severance pay if EMPLOYEE's resignation is solely voluntary on EMPLOYEE's part.

b. The COUNCIL may terminate this Agreement upon an affirmative vote of four (4) members of the COUNCIL, with or without cause. COUNCIL shall give EMPLOYEE a minimum of thirty (30) days written notice prior to terminating EMPLOYEE as City Clerk, provided, however, that if EMPLOYEE is terminated for cause as defined in this Agreement, the thirty (30) day written notice requirement shall not apply and EMPLOYEE may be terminated effective immediately upon written notice.

c. If the COUNCIL discharges EMPLOYEE without cause during the term of this Agreement, and EMPLOYEE is willing and able to perform her duties under this Agreement, then EMPLOYEE shall be entitled to a severance payment equal to three (3) months of EMPLOYEE's then current annual base salary. This provision will not apply in the event the COUNCIL discharges EMPLOYEE for cause, in which case EMPLOYEE will not be entitled to any severance payment or continuation of benefits. The determination of whether there is good cause for termination shall be in the sole

discretion of the COUNCIL. Severance pay under this Agreement shall be conditioned upon EMPLOYEE signing a waiver and release agreement forever releasing and waiving any and all claims in a form acceptable to the CITY. EMPLOYEE shall not receive any severance if such a release agreement is executed by the parties.

d. Nothing in this provision alters the at-will employment status of EMPLOYEE. Rather, the term “cause” simply relates to the issue of potential severance. For purposes of this Agreement, “cause” shall mean:

- (1) Willful and repeated failure to perform the duties of City Clerk;
- (2) Violation of any policies or procedures;
- (3) Insubordination;
- (4) Failure to maintain satisfactory working relationships with other employees or the public;
- (5) Conviction of an employment-related illegal act;
- (6) Conviction of a felony; or
- (7) Malfeasance materially related to the job.

e. Pursuant to Government Code section 53243.2, any cash settlement related to the termination of this Agreement received by EMPLOYEE from the CITY shall be fully reimbursed to the CITY if EMPLOYEE is convicted of a crime involving abuse of her office or position as defined in California Government Code section 53243.4.

f. Abuse of Office: Government Code sections 53243, 53243.1, 53243.2, and 53243.3 are incorporated by this reference as if fully set forth herein.

g. EMPLOYEE shall not receive any severance if she resigns, is terminated for cause, or if a waiver and release agreement is not executed by EMPLOYEE and CITY.

h. Notwithstanding the provisions of this Section and in accordance with Article IX, Section 900 of the City Charter, COUNCIL shall not terminate this Agreement during or within ninety (90) days next succeeding the election of a Member of the COUNCIL.

**SECTION 4. Salary**

a. Effective the 26<sup>th</sup> day of April, 2022, CITY agrees to pay EMPLOYEE for her services rendered pursuant to this Agreement an annual salary of One Hundred Thirty-Nine Thousand Dollars (\$139,000.00), payable in installments at the same time as other employees of CITY are paid.

b. Consideration shall be given on an annual basis to increase compensation following an annual performance evaluation as set forth in Section 11 of this Agreement.

**SECTION 5. Certification Incentive Pay**

City agrees to provide a professional certification incentive pay for the Certified Municipal Clerk certification at a rate of five percent (5%) calculated on the base salary rate.

**SECTION 6. Health, Long Term Disability, and Life Insurance Benefits**

a. CITY agrees to provide health, dental, and vision insurance for EMPLOYEE and dependents equal to that which is provided to all other unrepresented Management and Confidential employees of CITY. CITY's contribution toward the

premiums for said health, dental, and vision coverage shall not be less than that which CITY contributes to other Executive employees of the CITY.

b. CITY agrees to provide long term disability coverage for EMPLOYEE at CITY's expense.

c. CITY shall pay the amount of premium due for a term life insurance policy consistent with that provided to other unrepresented Management and Confidential employees of CITY. EMPLOYEE shall name the beneficiary of the life insurance policy.

**SECTION 7. Retirement**

a. CITY shall continue enrollment of EMPLOYEE in the California Public Employees' Retirement System ("CalPERS"). EMPLOYEE shall pay one hundred percent (100%) of the total "Employee's share," and CITY shall pay one hundred percent (100%) of the "Employer's share."

b. CITY shall provide a qualified 401(a) defined contribution plan for EMPLOYEE in the form of a money purchase plan to which CITY shall contribute five percent (5%) of EMPLOYEE's base salary. EMPLOYEE shall match the CITY's contribution.

c. CITY shall provide a Section 457 deferred compensation plan for EMPLOYEE's voluntary participation. In addition to the base salary paid by CITY to EMPLOYEE, CITY agrees to pay an amount equal to one and one-half percent (1.5%) of EMPLOYEE's base salary, or greater, into the designated plan on the EMPLOYEE's behalf, in equal proportionate amounts each pay period. EMPLOYEE shall match CITY's contribution. Amount increases to two and one-half percent (2.5%) at nine (9)

years of service. EMPLOYEE's prior years of service will be counted toward the nine (9) years.

d. Any or all of the CITY and EMPLOYEE contribution amounts designated in this Section are subject to change in the event that COUNCIL authorizes such change for all Charter Officers of the CITY.

**SECTION 8. Other Supplemental Benefits**

a. Vacation Leave. Upon the effective date of this Agreement, EMPLOYEE shall be credited with twenty (20) hours of vacation leave and commence accruing vacation at the rate of one hundred twenty-eight (128) hours during year one (1). In each subsequent year, EMPLOYEE's vacation accrual rate shall increase on her employment anniversary date of April 26<sup>th</sup>, consistent with the standard vacation accrual progression for Management and Confidential employees. This vacation accrual is in addition to the standard eighty (80) hours of Management Leave afforded annually to Executives and Charter Officers. EMPLOYEE shall be credited with a pro-rata share of Management Leave hours for calendar year 2022 hours upon the effective date of this Agreement.

b. Retiree Health Savings. Retiree Health Savings monthly contributions will be effective upon the hire date.

c. Automobile. EMPLOYEE's functions and duties require that she shall have the use of an automobile during her employment with the CITY. CITY shall pay EMPLOYEE the monthly sum of five hundred dollars (\$500) for the expense of owning, operating, maintaining, and insuring her personal automobile.

c. Other Benefits. All actions taken by COUNCIL relating to fringe benefits for unrepresented Management and Confidential employees shall be considered actions

granting the same benefits to EMPLOYEE. As used herein, fringe benefits include but are not limited to vacation, sick leave, holidays, retirement (CalPERS) benefits and payments, health insurance, dental insurance, vision insurance, and life insurance.

**SECTION 9. Professional Development**

In its discretion, COUNCIL shall budget for and pay travel and subsistence expenses of EMPLOYEE for professional and official travel, meetings, courses, institutes, and seminars adequate to continue her professional development and to adequately pursue necessary official and other functions on behalf of the CITY, including but not limited to the annual conference of the League of California Cities and the annual League of California Cities City Clerk's Department Conference.

**SECTION 10. Indemnification**

CITY shall defend, hold harmless, and indemnify EMPLOYEE against any tort, professional liability claim or demand, or any other legal action, whether groundless or otherwise, arising out of any alleged act or omission occurring in the course and scope of performance of EMPLOYEE's functions and duties. CITY may compromise and settle any claim or suit and shall pay the amounts of all settlements or judgments rendered against EMPLOYEE and/or CITY thereon. Any CITY funds provided for the legal criminal defense of EMPLOYEE shall be fully reimbursed in accordance with California Government Code section 53243.1 if EMPLOYEE is convicted of a crime involving abuse of her office or position as defined in California Government Code section 53243.4.

**SECTION 11. Performance Evaluation**

- a. COUNCIL shall review and evaluate EMPLOYEE's performance at least once a year.
- b. Annually, the COUNCIL may define such goals and performance objectives as COUNCIL determines necessary for the proper operation of CITY and the attainment of the COUNCIL's policy objectives and may further establish a relative priority among those various goals and objectives, said goals and objectives to be reduced to writing. Said goals and objectives shall generally be attainable within the time limitations as specified in the annual operations and capital budgets and appropriations provided.
- c. In effecting the provisions of this Section, the COUNCIL and EMPLOYEE mutually agree to abide by the provisions of applicable law.
- d. EMPLOYEE will timely cause to be placed on the COUNCIL agenda each year a "closed session" for purposes of her performance evaluation.

**SECTION 12. Additional Term of Employment**

COUNCIL, in consulting with EMPLOYEE, shall fix any such other terms and conditions of employment as it may determine from time to time relating to the performance of EMPLOYEE, provided that such terms and conditions are reduced to writing and included in an amendment to this Agreement.

**SECTION 13. Notices**

Notices pursuant to this Agreement shall be given by deposit in the custody of the United States Postal Service, postage prepaid, addressed as follows, or as such address may be changed from time to time upon notice to the other:

CITY:  
Mayor  
City of Modesto  
P. O. Box 642  
1010 10<sup>th</sup> Street, Suite 6200  
Modesto CA 95353

EMPLOYEE:  
Diane Nayares-Perez

Alternatively, notices required pursuant to this Agreement may be personally served in the same manner as is applicable to civil judicial practice. Notice shall be deemed given as of the date of personal service or as of the date of deposit of such written notice in the course of transmission in the United States Postal Service.

**SECTION 14. General Provisions**

- a. The text herein shall constitute the entire agreement between the Parties.
- b. This Agreement shall be binding upon and inure to the benefit of the heirs at law and executors of EMPLOYEE.
- c. This Agreement shall become effective commencing the 26<sup>th</sup> day of April, 2022.
- d. If any provision, or any portion thereof, contained in this Agreement is held unconstitutional, invalid, or unenforceable, the remainder of this Agreement, or portion thereof, shall be deemed severable, shall not be affected, and shall remain in full force and effect.

IN WITNESS WHEREOF the CITY has caused this Agreement to be signed and executed in its behalf by its Mayor under the authority of Resolution No. \_\_\_\_\_, and EMPLOYEE has signed and executed this Agreement, both in duplicate, the day and year first above written, and EMPLOYEE has caused this Agreement to be duly executed.

CITY OF MODESTO  
A MUNICIPAL CORPORATION:

By \_\_\_\_\_  
Sue Zwahlen, Mayor

EMPLOYEE:

By \_\_\_\_\_  
Diane Nayares-Perez

(SEAL)

APPROVED AS TO FORM:

By \_\_\_\_\_  
JOSE M. SANCHEZ, City Attorney

5081844.1

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2022-181**

**RESOLUTION APPROVING AN INCREASE TO THE PURCHASE ORDER WITH KATE TROMPETTER CONSULTING FOR CONTINUED FACILITATION SERVICES FOR THE FORWARD TOGETHER INITIATIVE, BY \$17,303, FROM \$49,460 FOR A REVISED AMOUNT NOT TO EXCEED \$66,763, AND AUTHORIZING THE PURCHASE MANGER OR HER DESIGNEE TO INCREASE THE PURCHASE ORDER**

WHEREAS, in policing, the importance of building trust is the foundation of a strong relationship between law enforcement and the community, and

WHEREAS, over the course of the past several years, the Modesto Police Department (MPD) has embedded community engagement and trust-building initiatives into the day-to-day work of an officer to help promote trust, and

WHEREAS, MPD has done this through programs such as Coffee with a Cop, National Night Out, Clergy Council, and many others, and

WHEREAS, however, the death of George Floyd in May 2020 triggered protests in hundreds of cities across the United States and renewed the national discussion around police use of force, police-community relations, and reform, and

WHEREAS, in December 2020, the tragic death of Trevor Seeever added to the local conversation and calls have intensified to find solutions to reduce the frequency and severity of violent encounters between police and the public, and

WHEREAS, some local groups have called into question the community's trust of the Modesto Police Department as well as the internal policies and practices designed to ensure that the police department is being fair, transparent, and accountable to the public, and

WHEREAS, to reaffirm the City's commitment to maintaining community trust, Mayor Sue Zwahlen announced the launch of a community engagement process to solicit feedback on police-community relations – titled Forward Together, and

WHEREAS, the community engagement process has sought to first, educate, and second, explore solutions that address concerns that are identified, and

WHEREAS, further, the community-based process has included monthly meetings offering the opportunity for broader community involvement in recommendations to improve the police-community relations in the City of Modesto, and

WHEREAS, to support the Forward Together working group, the City engaged Kate Trompetter and Michael Baldwin in May 2021 to offer design, facilitation, and coaching support, and

WHEREAS, the City issued a Purchase Order for these services in an amount not-to-exceed \$49,460; to date, Ms. Trompetter and Mr. Baldwin have been instrumental in supporting the Forward Together work group's process and progress in developing recommendations for Council consideration and

WHEREAS, however, additional work that was not anticipated when this agreement was initially negotiated has been identified to support the work of the three ad hoc committees, the forced option simulator experience, and additional planning meetings with City staff, and

WHEREAS, the Forward Together work group has begun to formulate recommendations and is expected to deliver final recommendations to the City Council in the coming months, and

WHEREAS, in order to complete the work required in the desired timeline, the City is seeking an increase of this Purchase Order by \$17,303, to a new revised total amount not to exceed \$66,763, and

WHEREAS, the costs would be absorbed by the General Fund.

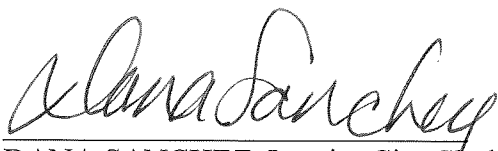
NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves an increase to the Purchase Order with Kate Trompetter Consulting for continued facilitation services for the Forward Together initiative, by \$17,303, from \$49,460 for a revised amount not to exceed \$66,763, and authorizing the Purchase Manger or her designee to increase the purchase order.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 12th day of April, 2022, by Councilmember Wright, who moved its adoption, which motion being duly seconded by Councilmember Madrigal, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Escutia-Braaton, Kenoyer, Madrigal, Ricci, Wright, Mayor Zwahlen

NOES: Councilmembers: None

ABSENT: Councilmembers: Zoslocki

ATTEST:   
DANA SANCHEZ, Interim City Clerk

(SEAL)

APPROVED AS TO FORM:

BY:   
JOSE M. SANCHEZ, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2022-182**

**RESOLUTION ACCEPTING FISCAL YEAR 2022-2023 ENGINEER'S ANNUAL REPORT FOR LANDSCAPE MAINTENANCE ASSESSMENT DISTRICT NO. 1 FOR DRY CREEK MEADOWS SUBDIVISIONS NOS. 1 THROUGH 6; DECLARING INTENTION TO LEVY AND COLLECT ASSESSMENTS FOR LANDSCAPE MAINTENANCE ASSESSMENT DISTRICT NO. 1 FOR DRY CREEK MEADOWS SUBDIVISIONS NOS. 1 – 6 AND SETTING A PUBLIC HEARING ON JUNE 28, 2022 TO CONSIDER THE FISCAL YEAR 2022-23 LEVY AND COLLECTION OF ASSESSMENTS WITHIN LANDSCAPE MAINTENANCE ASSESSMENT DISTRICT NO. 1**

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 Maintenance Assessment District No. 1 for the purpose of administering the maintenance of landscaping in the public right-of-way within the street medians and adjacent to the access control walls in Dry Creek Meadows Subdivisions Nos. 1-6, and

WHEREAS, said assessment district was formed in accordance with the Landscape and Lighting Act of 1972, (California Streets and Highways Code Sections 22500 through 22679), and

WHEREAS, Section 22623 of the California 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 Engineer of Work, has prepared and filed said annual report with the City Clerk, and

WHEREAS, California Streets and Highways Code Section 22623 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 California 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 hereby accepts the Fiscal Year 2022-23 Engineer's Annual Report for Landscape Maintenance Assessment District No. 1 for Dry Creek Meadows Subdivisions Nos. 1 through 6, which is **attached** hereto and hereinafter incorporated by reference.

BE IT FURTHER RESOLVED that the City Council hereby finds as follows:

1. The City Council intends to levy and collect assessments within Landscape Maintenance Assessment District No. 1 during the

fiscal year 2022-23. The amount of the proposed assessment for 2022-23 is the same as the assessment for fiscal year 2021-2022.

2. There are no proposed new improvements or any substantial changes in existing improvements in Landscape Maintenance Assessment District No. 1 and that the existing improvements to be made in said assessment district are generally described as follows:  
The City shall provide maintenance 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 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 28<sup>th</sup> day of June, 2022, 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 10<sup>th</sup> Street, Modesto, California.
6. The City Clerk is authorized and directed to give the notice of hearing required by the Landscape and Lighting Act of 1972.
7. The levy and collection of assessments as set forth in this resolution are exempt from the procedural and substantive requirements of Proposition 218 pursuant to Article XIII, Section 5(a) of the California Constitution.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 12th day of April, 2022, by Councilmember Kenoyer, who moved its adoption, which motion being duly seconded by Councilmember Wright, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Escutia-Braaton, Kenoyer, Madrigal, Ricci, Wright, Mayor Zwahlen

NOES: Councilmembers: None

ABSENT: Councilmembers: Zoslocki

ATTEST:   
DANA SANCHEZ, Interim City Clerk

(SEAL)

APPROVED AS TO FORM:

BY:   
JOSE M. SANCHEZ, City Attorney



# MODESTO

CALIFORNIA

**City of Modesto**  
**LANDSCAPE MAINTENANCE ASSESSMENT DISTRICT No. 1**  
**◆ DRY CREEK MEADOWS SUBDIVISIONS Nos. 1 through 6 ◆**  
*A Landscape Maintenance Assessment District pursuant to  
the Landscape and Lighting Act of 1972*

## ENGINEER'S ANNUAL REPORT

FISCAL YEAR  
JULY 1, 2022 - JUNE 30, 2023



**Prepared By:**

Jessica Hill  
Community Development Manager

**Certified By:**

Nathan Bray, **P.E.**  
Interim City Engineer

**Accepted By Motion:**

Modesto City Council

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## **SECTION I HISTORY**

On December 12, 1988, Landscape Maintenance Assessment District No. 1 (“LMAD No. 1”) was formed in accordance with the Landscape and Lighting Act of 1972 (California Streets and Highway Code §22500 through §22679) (“the Act”), to administer 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. All costs for the LMAD No. 1 are funded by the annual assessments levied on each property within the district. The Act requires several courses of action on the part of City staff and City Council prior to August 10<sup>th</sup> of each year.

The Act initially requires the City Council to order, prepare, and file an Engineer’s Annual Report for the City Council. This report is prepared for the purpose of detailing the plans and specifications for the maintenance of work, the estimated costs for landscape maintenance performed by City contractors, utility service charges, City street tree pruning costs, City staff time to administer the maintenance contract, and additional work to be performed by the City Contractor at the request of the City.

LMAD No. 1 is located east of North McClure Road and southwest of MID Lateral #2 and Claus Road. It is comprised of 749 single-family residential lots and three (3) public agency owned parcels. An annual assessment of \$26 per single-family residential parcel has remained the same since 1996. The total assessment to be levied for LMAD No. 1 for Fiscal Year 2022-2023 is \$19,474.

Upon the City Council’s approval of the Engineer’s Annual Report, the City Council adopts a resolution declaring its intent to levy and collect assessments within LMAD No. 1 for the following fiscal year and schedules a public hearing. This public hearing and proposed resolution levying the proposed assessments is in accordance with the annual assessment procedures.

Finally, in compliance with the Act, the City Council conducts the public hearing and adopts certain resolutions in accordance with the California Streets and Highways Code §22625 through §22641. The City Clerk is required to give the Modesto Bee notice of the public hearing no less than ten (10) days prior to the scheduled hearing date. All interested persons are afforded the opportunity to be heard during the public hearing. Should there be any protests, whether written or oral, the City Council may choose to continue the hearing to a later date and/or may change any part of the Engineer’s Annual Report to address the concerns of the property owner(s). The adopted resolution is then forwarded to the Auditor-Controller of the County of Stanislaus for placement of such charges on the upcoming year’s County Tax Roll.

## SECTION II ANNUAL ASSESSMENT REVIEW AND SUMMARY

### A. PARCEL REVIEW

1. Single Family Residential Parcels:  
There are 749 single-family residential parcels located within LMAD No. 1.
2. Multi-Family Residential Parcels:  
There are no multi-family residential parcels located within LMAD No. 1.
3. Commercial/Industrial Parcels:  
There are no commercial or industrial parcels located within LMAD No. 1.
4. Public Agency Parcels:  
There are two (2) parcels owned by the City of Modesto (Creekwood Park and the Pedestrian Overcrossing at Claus Road) and one (1) parcel owned by the Empire School District (Bernard Hughes School). According to §22663 of the California Streets and Highways Code, public property owned by any public agency and in use in the performance of a public function shall not be subject to assessment.

### B. 2022-2023 ANNUAL ASSESSMENTS

All single-family residential parcels are levied at a flat rate of \$26.00 per parcel. Each parcel receives equal benefits from the District. The Stanislaus County Auditor-Controller's Office, Property Taxes and Assessments Division, collects a \$0.20 fee per assessment and per parcel. This fee is built into the annual assessment being levied for LMAD No. 1. The annual assessments levied are calculated by multiplying the total number of parcels by the flat rate.

\$	26.00	Annual assessment per parcel
x	749	Single-family residential parcels
\$	19,474.00	Total annual assessment

### C. COMPARISON TO PREVIOUS FISCAL YEAR

The proposed Fiscal Year 2022-2023 annual assessment is the same as the annual assessment for Fiscal Year 2021-2022 of \$26.00 per single-family residential parcel.

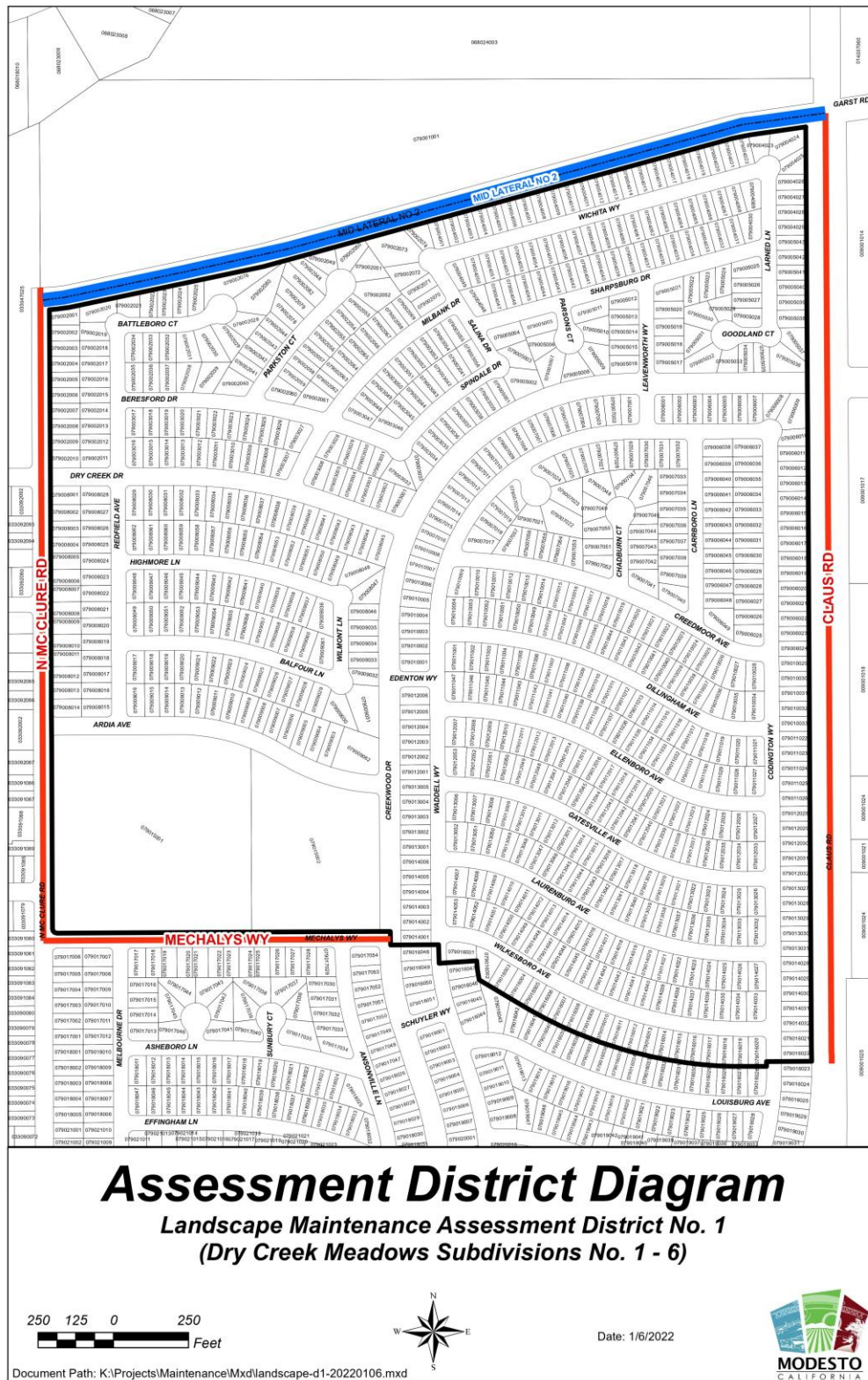
## SECTION III FINANCIALS – ANNUAL ASSESSMENT REVENUE & EXPENSE PROJECTIONS

LMAD No. 1 Fund 6480		Estimated FY 2021-22 <sup>1</sup>	Proposed FY 2022-23 <sup>2</sup>
<b>Beginning Fund Balance</b>		\$ 7,070	\$ 8,410
<b>Revenue (Cost Center 80010)</b>			
Special Assessments		\$ 11,083 <sup>3</sup>	\$ 19,324 <sup>4</sup>
Interest		\$ 8	
<i>Estimated - Special Assessments</i>		\$ 8,391 <sup>5</sup>	
<b>Total Revenue</b>		<b>\$ 19,482</b>	<b>\$ 19,324</b>
<b>Expenses (Cost Center 80010)</b>	<b>Account</b>		
<i>Operating Budget</i>			
Postage Expenses	52025	\$ -	\$ -
Water Utility Expenses	53043	\$ (3,225)	\$ (4,500)
Repair and Maintenance Services - Landscape	53165	\$ (4,860)	\$ (8,687)
Professional Services	53300	\$ -	\$ (1,000)
Legal Services	53450	\$ -	\$ (500)
Services City Forces - Interfund	54500	\$ (1,368)	\$ (3,790)
<i>Estimated - Water Utility Expenses</i>	53043	\$ (1,275)	
<i>Estimated - Repair and Maintenance Services</i>	53165	\$ (5,730)	
<i>Estimated - Professional Services</i>	53300	\$ (1,000)	
<i>Estimated - Legal Services</i>	53450		
<i>Estimated - Services City Forces</i>	54500	\$ (684)	
<b>Total Expenses</b>		<b>\$ (18,142)</b>	<b>\$ (18,477)</b>
<b>Ending Fund Balance</b>		<b>\$ 8,410</b>	<b>\$ 9,257</b>
<sup>1</sup> The final amount shows what has been expended as of 02.28.22 in FY22. There will be more expenses through the end of the fiscal year (June); these are shown as Estimated.			
<sup>2</sup> The estimated expenditures for FY 2022-23 are based on the revenue that is currently able to be generated within LMAD No. 1.			
<sup>3</sup> Actual revenue received for FY 2021-22 tax levy.			
<sup>4</sup> Proposed revenue			
<sup>5</sup> Estimated revenues for second installment of FY 2021-22 tax levy.			

## **SECTION IV      MAINTENANCE & PLAN SPECIFICATIONS**

Plans and specifications are available for review in the Public Works Department, located at 512 Jefferson Street, Modesto, CA. For more information, contact Kelly Gallagher, Parks Operations Manager at (209) 342-2270.

# SECTION V ANNUAL ASSESSMENT DISTRICT DIAGRAM



## SECTION VI ANNUAL ASSESSMENT LIST BY PARCEL & OWNER

Fee Parcel	Owner	Address	City State Zip	2022-23 Ast.
079-002-001-000	MERCADO LISA M & RODOLFO	736 N MC CLURE RD	Modesto CA 95357	\$26.00
079-002-002-000	SOUMPHONPHAKDY YOUTHANA	732 N MC CLURE RD	Modesto CA 95357	\$26.00
079-002-003-000	SORDO BRYON S ET AL	728 N MC CLURE RD	Modesto CA 95357	\$26.00
079-002-004-000	PRASAD AJAY B & CHANDRA SAILESHNI D	724 N MC CLURE RD	Modesto CA 95357	\$26.00
079-002-005-000	LOPEZ JOSE M	720 N MC CLURE RD	Modesto CA 95354	\$26.00
079-002-006-000	YATES MICHAEL V & YATES CHRISTINE M	716 N MC CLURE RD	Modesto CA 95357	\$26.00
079-002-007-000	ALBANO FLORANTE J & ALBANO JUANITA T	712 N MC CLURE RD	Modesto CA 95354	\$26.00
079-002-008-000	GARCIA JOSE DE JESUS	708 N MC CLURE RD	Modesto CA 95354	\$26.00
079-002-009-000	ESPINOZA GABRIEL	704 N MC CLURE RD	Modesto CA 95357	\$26.00
079-002-010-000	LEON MARTHA	700 N MC CLURE RD	Modesto CA 95357	\$26.00
079-002-011-000	SAMRA AMARJIT S TR	701 REDFIELD AVE	Modesto CA 95357	\$26.00
079-002-012-000	BARRIENTOS DAVID & BARRIENTOS MARIA E	705 REDFIELD AVE	Modesto CA 95357	\$26.00
079-002-013-000	YOUNGMAN AARON B & LAUREN E	709 REDFIELD AVE	Modesto CA 95357	\$26.00
079-002-014-000	BATTAGLIA COREY J	713 REDFIELD AVE	Modesto CA 95357	\$26.00
079-002-015-000	BADAL EDWARD E & BADAL JANET E	717 REDFIELD AVE	Modesto CA 95357	\$26.00
079-002-016-000	NGUYEN THANG & DANG LIEN	721 REDFIELD AVE	Modesto CA 95357	\$26.00
079-002-017-000	SMITH ROBIN K & SMITH SUSAN R	725 REDFIELD AVE	Modesto CA 95357	\$26.00
079-002-018-000	WRIGHT JASON ET AL	729 REDFIELD AVE	Modesto CA 95357	\$26.00
079-002-019-000	VAZQUEZ MIRIAM S	733 REDFIELD AVE	Modesto CA 95357	\$26.00
079-002-020-000	CASEY MARY JOHN	737 REDFIELD AVE	Modesto CA 95357	\$26.00
079-002-021-000	PANYANOUVONG ROCKY P ET AL	3513 BATTLEBORO CT	Modesto CA 95357	\$26.00
079-002-022-000	JOHNSON VERDELL TR	3517 BATTLEBORO CT	Modesto CA 95357	\$26.00
079-002-023-000	VILLEGAS JOSEPH J	3521 BATTLEBORO CT	Modesto CA 95357	\$26.00
079-002-024-000	PLUNK NATALIE & ROBERT	3525 BATTLEBORO CT	Modesto CA 95357	\$26.00
079-002-025-000	HASKEL ALAN	3529 BATTLEBORO CT	Modesto CA 95357	\$26.00
079-002-028-000	ALVAREZ VICTOR R & CRISTINA TRS	3536 BATTLEBORO CT	Modesto CA 95357	\$26.00
079-002-029-000	HASKEL ROBERT	3532 BATTLEBORO CT	Modesto CA 95357	\$26.00
079-002-030-000	EMERY EVERETTE & SHONDA TRS	3528 BATTLEBORO CT	Modesto CA 95357	\$26.00
079-002-031-000	VILLALPANDO HERIBERTO & ROSA	3524 BATTLEBORO CT	Modesto CA 95357	\$26.00
079-002-032-000	NGUYEN HUY ET AL	3520 BATTLEBORO CT	Modesto CA 95357	\$26.00
079-002-033-000	PRASHAD RAJENDRA & SONI L	3516 BATTLEBORO CT	Modesto CA 95357	\$26.00
079-002-034-000	VO SANG	3512 BATTLEBORO CT	Modesto CA 95357	\$26.00
079-002-035-000	ALCAZAR ELISA C ET AL	3513 BERESFORD DR	Modesto CA 95357	\$26.00
079-002-036-000	CARREON JOSE & CECILIA	3517 BERESFORD DR	Modesto CA 95357	\$26.00
079-002-037-000	GOMEZ PATRICIA	3521 BERESFORD DR	Modesto CA 95357	\$26.00
079-002-038-000	COENEN KELVIN L & COENEN CHRISTINA P	3525 BERESFORD DR	Modesto CA 95357	\$26.00
079-002-039-000	BECERRA JUAN CARLOS RIVERA	3529 BERESFORD DR	Modesto CA 95357	\$26.00
079-002-040-000	CARSON SAMMY D & CARSON BRENDA S	713 PARKSTON CT	Modesto CA 95357	\$26.00
079-002-041-000	ALLEN FLETCHER	717 PARKSTON CT	Modesto CA 95357	\$26.00
079-002-042-000	SOTO HECTOR M & PENNA MARIA C	721 PARKSTON CT	Modesto CA 95357	\$26.00
079-002-043-000	SAMRA AMARJIT	725 PARKSTON CT	Modesto CA 95357	\$26.00
079-002-044-000	WRIGHT JASON ODELL SR & SARA	729 PARKSTON CT	Modesto CA 95357	\$26.00
079-002-048-000	SINGH JOTIKA ET AL	745 PARKSTON CT	Modesto CA 95357	\$26.00
079-002-049-000	TOWNSELL DARNELL JR ET AL	749 PARKSTON CT	Modesto CA 95357	\$26.00
079-002-050-000	ALTON KARIM YOUKHANA TR	753 PARKSTON CT	Modesto CA 95357	\$26.00
079-002-051-000	TORRES JUAN LUIS	752 PARKSTON CT	Modesto CA 95357	\$26.00
079-002-052-000	CASTILLO RANDY	748 PARKSTON CT	Modesto CA 95357	\$26.00
079-002-053-000	LANZA PHILIP R	744 PARKSTON CT	Modesto CA 95357	\$26.00
079-002-054-000	FABER BRUCE ET AL	740 PARKSTON CT	Modesto CA 95357	\$26.00
079-002-055-000	PEREZ ISIDRO C	736 PARKSTON CT	Modesto CA 95357	\$26.00
079-002-056-000	GANJA SAM	732 PARKSTON CT	Modesto CA 95357	\$26.00
079-002-057-000	GUEVARA NICOLAS A & MARIA C	728 PARKSTON CT	Modesto CA 95357	\$26.00
079-002-058-000	COLLS LUIS R TR	724 PARKSTON CT	Modesto CA 95357	\$26.00

Fee Parcel	Owner	Address	City State Zip	2022-23 Ast.
079-002-059-000	MUSIC DAVID T & PATRICIA A	720 PARKSTON CT	Modesto CA 95357	\$26.00
079-002-060-000	CLARKE THOMAS D II & BRENDA L	716 PARKSTON CT	Modesto CA 95355	\$26.00
079-002-061-000	CASTIGLIONE JOSEPH B & BECKY M	713 MILBANK DR	Modesto CA 95357	\$26.00
079-002-062-000	LUBINSKY EDWARD & LUBINSKY CAROL E	717 MILBANK DR	Modesto CA 95354	\$26.00
079-002-063-000	CASTILLO HECTOR	721 MILBANK DR	Modesto CA 95357	\$26.00
079-002-064-000	PRASAD RAMA ET AL TRS	725 MILBANK DR	Modesto CA 95357	\$26.00
079-002-065-000	WINGO NAIDA J ET AL	729 MILBANK DR	Modesto CA 95357	\$26.00
079-002-066-000	SMITH MARQUE R	733 MILBANK DR	Modesto CA 95357	\$26.00
079-002-067-000	VILLANUEVA DAVID M & VILLANUEVA DIANE M	737 MILBANK DR	Modesto CA 95357	\$26.00
079-002-068-000	PETERSON JEAN	741 MILBANK DR	Modesto CA 95357	\$26.00
079-002-069-000	MORSE GERALD WAYNE & CONSUELO	745 MILBANK DR	Modesto CA 95357	\$26.00
079-002-070-000	RAMIREZ-RIVERA JULIO C & CRUZ-FUENTES ALMA NIDIA	817 SALINA DR	Modesto CA 95357	\$26.00
079-002-071-000	CONTRERAS JESUS E RAMOS & RAMOS ANGELICA CARRASC	821 SALINA DR	Modesto CA 95357	\$26.00
079-002-072-000	SALAZAR JENNIFER	825 SALINA DR	Modesto CA 95357	\$26.00
079-002-073-000	MANANQUIL DEXTER & PRAK DEBBIE	3701 WICHITA WAY	Modesto CA 95357	\$26.00
079-002-074-000	ROMAN TED ET AL	3705 WICHITA WAY	Modesto CA 95357	\$26.00
079-002-076-000	BATES HAROLD & JANICE	3533 BATTLEBORO CT	Modesto CA 95357	\$26.00
079-002-078-000	SINGH MOHINDER	733 PARKSTON CT	Modesto CA 95357	\$26.00
079-002-079-000	SINGH DALVIR	737 PARKSTON CT	Modesto CA 95357	\$26.00
079-002-080-000	HASKEL ROBERT P	3537 BATTLEBORO CT	Modesto CA 95357	\$26.00
079-002-082-000	SIMAS LUIS & DAISY	741 PARKSTON CT	Modesto CA 95357	\$26.00
079-003-001-000	MAHARAJ SANJAI S & MAHARAJ ARUNA D	3641 DRY CREEK DR	Modesto CA 95357	\$26.00
079-003-002-000	HUFFMAN JOSEPH R II & MARLENE J	3637 DRY CREEK DR	Modesto CA 95357	\$26.00
079-003-003-000	BROWN CHRISTOPHER C & KAREN R	3633 DRY CREEK DR	Modesto CA 95357	\$26.00
079-003-004-000	CALVO SERGIO & SILVIA	3629 DRY CREEK DR	Modesto CA 95357	\$26.00
079-003-005-000	TORRES MOSES & ESTRADA NANCY	3625 DRY CREEK DR	Modesto CA 95357	\$26.00
079-003-006-000	MAGCALAS JOEL & VIRGINIA	3621 DRY CREEK DR	Modesto CA 95357	\$26.00
079-003-007-000	CORDOVA ISIDRO C & CORDOVA MARTHA B	3613 DRY CREEK DR	Modesto CA 95357	\$26.00
079-003-008-000	CHUANGS INVESTMENT INC	3609 DRY CREEK DR	Modesto CA 95357	\$26.00
079-003-009-000	PRASAD SUJENDRA & DEVI SANGITA	3605 DRY CREEK DR	Modesto CA 95357	\$26.00
079-003-010-000	GIL MARTIN & GIL DEBORAH L	3601 DRY CREEK DR	Modesto CA 95357	\$26.00
079-003-011-000	DOUGLAS GREG & DOUGLAS TERI	3537 DRY CREEK DR	Modesto CA 95357	\$26.00
079-003-012-000	HERNANDEZ FERNANDO PARDO & HERNANDEZ GLORIA C	3533 DRY CREEK DR	Modesto CA 95357	\$26.00
079-003-013-000	CHERRY RANDY L & ROSALBA	3529 DRY CREEK DR	Modesto CA 95357	\$26.00
079-003-014-000	REYES FERNANDO ET AL	3525 DRY CREEK DR	Modesto CA 95357	\$26.00
079-003-015-000	CHUON LEE ET AL	3521 DRY CREEK DR	Modesto CA 95357	\$26.00
079-003-016-000	DIXON THOMAS L TR	3517 DRY CREEK DR	Modesto CA 95357	\$26.00
079-003-017-000	WISNER JAMES E & ELINA S	3512 BERESFORD DR	Modesto CA 95354	\$26.00
079-003-018-000	ESTRADA ADRIANA G	3516 BERESFORD DR	Modesto CA 95357	\$26.00
079-003-019-000	DELANEY KIMBERLY R	3520 BERESFORD DR	Modesto CA 95357	\$26.00
079-003-020-000	LOVE BOBBY	3524 BERESFORD DR	Modesto CA 95357	\$26.00
079-003-021-000	DHALIWAL JOGINDER SINGH & KULWANT KAUR	3528 BERESFORD DR	Modesto CA 95357	\$26.00
079-003-022-000	LUTTRELL ERIC ET AL	3532 BERESFORD DR	Modesto CA 95357	\$26.00
079-003-023-000	MENDOZA ADRIAN & ROSA	3536 BERESFORD DR	Modesto CA 95357	\$26.00
079-003-024-000	GARCIA JOSE VASQUEZ & MOSQUEDA LAURA CALDERON	3540 BERESFORD DR	Modesto CA 95357	\$26.00
079-003-025-000	FISCHER WILLIAM & FISCHER CAROL	3600 BERESFORD DR	Modesto CA 95357	\$26.00
079-003-026-000	ARELLANO ERIK ALBERTO	3604 BERESFORD DR	Modesto CA 95357	\$26.00
079-003-027-000	PRAKASH OM & SUSHIL	3608 BERESFORD DR	Modesto CA 95357	\$26.00
079-003-028-000	REYES ERLINDA M TR	3616 BERESFORD DR	Modesto CA 95357	\$26.00
079-003-029-000	CHUNG WILLIAM & YEH GEORGINA PIK-CHING TRS	3620 BERESFORD DR	Modesto CA 95357	\$26.00
079-003-030-000	BURKE GARY F II & JEAN-BURKE BECKY TRS	3624 BERESFORD DR	Modesto CA 95357	\$26.00
079-003-031-000	MUNOZ ALFREDO F & CEYLON A	3628 BERESFORD DR	Modesto CA 95357	\$26.00
079-003-032-000	SAENGPACHANH PHONESY ET AL	3632 BERESFORD DR	Modesto CA 95357	\$26.00
079-003-033-000	ROTH WILLIAM C & ROTH DOLORES	704 SPINDALE DR	Modesto CA 95350	\$26.00
079-003-034-000	SOLIS MARIA	708 SPINDALE DR	Modesto CA 95357	\$26.00

Fee Parcel	Owner	Address	City State Zip	2022-23 Ast.
079-003-035-000	LANGI SOANE	712 SPINDALE DR	Modesto CA 95357	\$26.00
079-003-036-000	SHARMA RUDRA DUTT & RESHMIKA	716 SPINDALE DR	Modesto CA 95357	\$26.00
079-003-037-000	DEL REAL INDELACIO & DEL REAL ELENA	720 SPINDALE DR	Modesto CA 95357	\$26.00
079-003-038-000	MORALES DIANA R	724 SPINDALE DR	Modesto CA 95357	\$26.00
079-003-039-000	MONTELONGO SANDRO	728 SPINDALE DR	Modesto CA 95357	\$26.00
079-003-041-000	GONZALES JUAN G JR & GLORIA M	729 SPINDALE DR	Modesto CA 95357	\$26.00
079-003-042-000	DORRETT NEWTON & LYNELL D	725 SPINDALE DR	Modesto CA 95357	\$26.00
079-003-043-000	SAMMULI ROBERT A & JAMIE L	721 SPINDALE DR	Modesto CA 95357	\$26.00
079-003-044-000	GARCIA ERIKA YAZMIN	717 SPINDALE DR	Modesto CA 95357	\$26.00
079-003-045-000	REYES ROGELIO GONZALEZ	713 SPINDALE DR	Modesto CA 95357	\$26.00
079-003-046-000	BOWMAN ANDREW	709 SPINDALE DR	Modesto CA 95357	\$26.00
079-003-047-000	SINGH RAWNIK & LAL RANJITA	3617 BERESFORD DR	Modesto CA 95357	\$26.00
079-003-048-000	COULIBALY LLC	720 MILBANK DR	Modesto CA 95357	\$26.00
079-003-049-000	MOODY DIANE K	724 MILBANK DR	Modesto CA 95357	\$26.00
079-003-050-000	SWITZER LYNDELL TR	728 MILBANK DR	Modesto CA 95357	\$26.00
079-003-051-000	KILGORE LINDA L	732 MILBANK DR	Modesto CA 95357	\$26.00
079-003-052-000	MAXWELL VIRGINIA E	736 MILBANK DR	Modesto CA 95357	\$26.00
079-003-053-000	JUDD JIMMIE RANDALL ET AL	740 MILBANK DR	Modesto CA 95357	\$26.00
079-003-054-000	SPIEKER JANE R & DAVID M	744 MILBANK DR	Modesto CA 95357	\$26.00
079-003-055-000	ALVEAR FELICITAS	748 MILBANK DR	Modesto CA 95357	\$26.00
079-003-056-000	PAHL KAREN M ET AL	733 SPINDALE DR	Modesto CA 95357	\$26.00
079-004-001-000	ESPARZA WILLIAM & ELSA	3709 WICHITA WAY	Modesto CA 95357	\$26.00
079-004-002-000	CASSIDY ALAN K & CASSIDY SUSAN H	3713 WICHITA WAY	Modesto CA 95357	\$26.00
079-004-003-000	HAWIL ALFRED	3717 WICHITA WAY	Modesto CA 95357	\$26.00
079-004-004-000	PALMERIN ARTURO & PATRICIA	3721 WICHITA WAY	Modesto CA 95357	\$26.00
079-004-005-000	PAPPAS MICHAEL & NANCY CARDENAS	3725 WICHITA WAY	Modesto CA 95357	\$26.00
079-004-006-000	MANLULU NOEL M & MANLULU MARIVIC F	3729 WICHITA WAY	Modesto CA 95357	\$26.00
079-004-007-000	TOWNE JAMES E & TOWNE AMANDA J	3733 WICHITA WAY	Modesto CA 95357	\$26.00
079-004-008-000	VALDES RENE D ET AL	3801 WICHITA WAY	Modesto CA 95357	\$26.00
079-004-009-000	DE ALBA RIGOBERTO SR & SANDRA L TRS	3805 WICHITA WAY	Modesto CA 95357	\$26.00
079-004-010-000	DE ALBA RIGOBERTO SR & SANDRA L TRS	3809 WICHITA WAY	Modesto CA 95357	\$26.00
079-004-011-000	WATTLE DANNY & CAROLANNE	3813 WICHITA WAY	Modesto CA 95357	\$26.00
079-004-012-000	HECKLER LAWRENCE S TR	3817 WICHITA WAY	Modesto CA 95357	\$26.00
079-004-013-000	ROMERO EDUARDO ANTONIO ELIAS	3821 WICHITA WAY	Modesto CA 95357	\$26.00
079-004-014-000	CURTRIGHT BARBARA TR	3825 WICHITA WAY	Modesto CA 95357	\$26.00
079-004-015-000	HAWIL MARCUS	3829 WICHITA WAY	Modesto CA 95354	\$26.00
079-004-016-000	GETREU DANIEL L & GETREU PATRICIA E	3901 WICHITA WAY	Modesto CA 95354	\$26.00
079-004-017-000	FUENTES MANUEL	3905 WICHITA WAY	Modesto CA 95357	\$26.00
079-004-018-000	GONZALEZ CARRAZCO LUIS A & BUENDIA ANA L	3909 WICHITA WAY	Modesto CA 95357	\$26.00
079-004-019-000	ALBERG DAVID A & PAMELA M TRS	3913 WICHITA WAY	Modesto CA 95354	\$26.00
079-004-020-000	BOWMAN TERRI	3917 WICHITA WAY	Modesto CA 95357	\$26.00
079-004-021-000	COX JULIE A	3921 WICHITA WAY	Modesto CA 95355	\$26.00
079-004-022-000	TEJEDA SERGIO L & VALDEZ JUANA ROCIO QUINTANILLA	3925 WICHITA WAY	Modesto CA 95357	\$26.00
079-004-023-000	MEZA HECTOR MEDINA	3929 WICHITA WAY	Modesto CA 95357	\$26.00
079-004-024-000	MARTINEZ ARTHUR J & ELISA R	3933 WICHITA WAY	Modesto CA 95357	\$26.00
079-004-025-000	GARDNER GEORGE & GARDNER DAWN	844 LARNED LN	Modesto CA 95357	\$26.00
079-004-026-000	SAMUEL BENJAMIN & JANET Y	840 LARNED LN	Modesto CA 95357	\$26.00
079-004-027-000	BARTON KEVIN A	836 LARNED LN	Modesto CA 95357	\$26.00
079-004-028-000	SEN INDAR & SEN SURUJ M	832 LARNED LN	Modesto CA 95357	\$26.00
079-004-029-000	VIGIL CELSO ET AL	828 LARNED LN	Modesto CA 95357	\$26.00
079-004-030-000	MENDOZA GEORGINA	3925 SHARPSBURG DR	Modesto CA 95357	\$26.00
079-004-031-000	VEGA CESAR & SABRINA	3921 SHARPSBURG DR	Modesto CA 95357	\$26.00
079-004-032-000	BALANJII HELEN FARHAD ZADEH	3917 SHARPSBURG DR	Modesto CA 95357	\$26.00
079-004-033-000	GLEN MAVIS J TR	3913 SHARPSBURG DR	Modesto CA 95357	\$26.00
079-004-034-000	SAN PEDRO SHIRLEY Q & GEORGE	3909 SHARPSBURG DR	Modesto CA 95357	\$26.00

Fee Parcel	Owner	Address	City State Zip	2022-23 Ast.
079-004-035-000	COGBURN LATISHA	3905 SHARPSBURG DR	Modesto CA 95357	\$26.00
079-004-036-000	PHIPPS CORY L & PHIPPS CAROLE J	3901 SHARPSBURG DR	Modesto CA 95357	\$26.00
079-004-037-000	RAYA ARMANDO & ESPARZA JOAN	3821 SHARPSBURG DR	Modesto CA 95357	\$26.00
079-004-038-000	BARNETT BRIENT K & ERIN	3817 SHARPSBURG DR	Modesto CA 95357	\$26.00
079-004-039-000	MUNOZFERRER ISMAEL & GLORIA LETICIA	3813 SHARPSBURG DR	Modesto CA 95357	\$26.00
079-004-040-000	AU-YEUNG CHI & AU-YEUNG TZE H	3809 SHARPSBURG DR	Modesto CA 95357	\$26.00
079-004-041-000	VASQUEZ CODY R & BYIANCA	3805 SHARPSBURG DR	Modesto CA 95351	\$26.00
079-004-042-000	SERNA MARLA ANN TR	3801 SHARPSBURG DR	Modesto CA 95357	\$26.00
079-004-043-000	SOUZA RICK L & SOUZA MARVELYN	3721 SHARPSBURG DR	Modesto CA 95357	\$26.00
079-004-044-000	WOOD SHAWN & WOOD KRISTINA M	3717 SHARPSBURG DR	Modesto CA 95357	\$26.00
079-004-045-000	HARO SAYRA YOSELYNE GUTIERREZ ET AL	3713 SHARPSBURG DR	Modesto CA 95357	\$26.00
079-004-046-000	OROZCO RUDY JOSEPH & QUIRALTE-CASTANEDA MELISSA	3709 SHARPSBURG DR	Modesto CA 95357	\$26.00
079-004-047-000	DIVIRD HEIDI N & JASON R	3705 SHARPSBURG DR	Modesto CA 95354	\$26.00
079-004-048-000	PANG YIM PING & LI FELIX JING HUI	3701 SHARPSBURG DR	Modesto CA 09535	\$26.00
079-004-049-000	EYRING MARION L TR	3712 WICHITA WAY	Modesto CA 95357	\$26.00
079-004-050-000	BENTLEY DOUGLAS & BENTLEY LEEANNE K	3716 WICHITA WAY	Modesto CA 95357	\$26.00
079-004-051-000	LEYVA RENE SR & CLAUDIA D	3720 WICHITA WAY	Modesto CA 95357	\$26.00
079-004-052-000	DUMAS JAMES BRIAN SR & PAMELA LEE TRS	3724 WICHITA WAY	Modesto CA 95357	\$26.00
079-004-053-000	MORENO ROSA MARIA	3728 WICHITA WAY	Modesto CA 95354	\$26.00
079-004-054-000	GALVAN OLALDE DANIEL GIBRAN & DIAZ GALVAN LAURA EL	3732 WICHITA WAY	Modesto CA 95357	\$26.00
079-004-055-000	CASTILLO RAFAEL	3800 WICHITA WAY	Modesto CA 95357	\$26.00
079-004-056-000	SALVATION ARMY	3804 WICHITA WAY	Modesto CA 95357	\$26.00
079-004-057-000	CLINE DAVID L & DEBRA N TRS	3808 WICHITA WAY	Modesto CA 95357	\$26.00
079-004-058-000	FUGATE BRANDON ET AL TRS	3812 WICHITA WAY	Modesto CA 95357	\$26.00
079-004-059-000	FLORES ROSANA P & JUANITO S JR	3816 WICHITA WAY	Modesto CA 95357	\$26.00
079-004-060-000	CABEBE MARIA RIZALINA C TR	3820 WICHITA WAY	Modesto CA 95357	\$26.00
079-004-061-000	MAYOL BIRGITT A TR ET AL	3824 WICHITA WAY	Modesto CA 95357	\$26.00
079-004-062-000	BADILLO ALAN & ADELITA M	3828 WICHITA WAY	Modesto CA 95357	\$26.00
079-004-063-000	VU DINH DUC	3900 WICHITA WAY	Modesto CA 95357	\$26.00
079-004-064-000	ALVAREZ LOUIS L ET AL	3904 WICHITA WAY	Modesto CA 95357	\$26.00
079-004-065-000	MANCINI JUDITH	3908 WICHITA WAY	Modesto CA 95357	\$26.00
079-004-066-000	ISRAEL SAMMY S & SHERLY ESGUERRA	3912 WICHITA WAY	Modesto CA 95357	\$26.00
079-004-067-000	ROJAS ROGELIO A	3916 WICHITA WAY	Modesto CA 95354	\$26.00
079-004-068-000	OVIEDO IRMA L ET AL	3920 WICHITA WAY	Modesto CA 95357	\$26.00
079-004-069-000	OKEY LEOTA L TR	3924 WICHITA WAY	Modesto CA 95357	\$26.00
079-005-001-000	SIMPSON STEVEN	732 SPINDALE DR	Modesto CA 95357	\$26.00
079-005-002-000	BALLIET RICHARD L & BALLIET SHERRY	736 SPINDALE DR	Modesto CA 95357	\$26.00
079-005-003-000	STAATS BAMBI MICHELLE ET AL	800 SALINA DR	Modesto CA 95357	\$26.00
079-005-004-000	HELLERUD GARRY A & HELLERUD ARLENE L	804 SALINA DR	Modesto CA 95354	\$26.00
079-005-005-000	URENA FIDEL & ELIA K	813 PARSONS CT	Modesto CA 95354	\$26.00
079-005-006-000	CLEMENTS PANDORA A	809 PARSONS CT	Modesto CA 95357	\$26.00
079-005-007-000	THOMPSON MELANIE	805 PARSONS CT	Modesto CA 95357	\$26.00
079-005-008-000	LAKE DAVID E & LAKE MARGARET R	800 PARSONS CT	Modesto CA 95357	\$26.00
079-005-009-000	LEE EDMUND W TR	804 PARSONS CT	Modesto CA 95357	\$26.00
079-005-010-000	GARCIA EDUARDO CAMPOS & ELIZABETH AGUARISTI TRS	808 PARSONS CT	Modesto CA 95351	\$26.00
079-005-011-000	HINOJOS BRANDON & KRYSTAL R	812 PARSONS CT	Modesto CA 95357	\$26.00
079-005-012-000	RANGEL FRANCISCO JAVIER JR	817 LEAVENWORTH WAY	Modesto CA 95357	\$26.00
079-005-013-000	MEDINA VICTOR & IRMA	813 LEAVENWORTH WAY	Modesto CA 95357	\$26.00
079-005-014-000	FAGUNDES ANTONIO L & HAIR JACQUELINE K TRS	809 LEAVENWORTH WAY	Modesto CA 95357	\$26.00
079-005-015-000	GARCIA MATIAS & GARCIA MERCEDES	805 LEAVENWORTH WAY	Modesto CA 95357	\$26.00
079-005-016-000	ERWIN TERESA M	801 LEAVENWORTH WAY	Modesto CA 95357	\$26.00
079-005-017-000	OWENS LARRY G & MARY Z TRS	800 LEAVENWORTH WAY	Modesto CA 95351	\$26.00
079-005-018-000	TAYLOR BRADLEY JOSEPH	804 LEAVENWORTH WAY	Modesto CA 95357	\$26.00
079-005-019-000	BISHOFF PHYLLIS J TR	808 LEAVENWORTH WAY	Modesto CA 95357	\$26.00
079-005-020-000	GASPARYAN ARMEN ET AL	812 LEAVENWORTH WAY	Modesto CA 95357	\$26.00

Fee Parcel	Owner	Address	City State Zip	2022-23 Ast.
079-005-021-000	MARCELINO DAVID C & REBECCA N	816 LEAVENWORTH WAY	Modesto CA 95357	\$26.00
079-005-022-000	GONZALES LOUIS R SR	3908 SHARPSBURG DR	Modesto CA 95357	\$26.00
079-005-023-000	DAVISON WAYNE & JO	3912 SHARPSBURG DR	Modesto CA 95357	\$26.00
079-005-024-000	HAWIL ALFRED	3916 SHARPSBURG DR	Modesto CA 95357	\$26.00
079-005-025-000	DURHAM SANDY M	817 LARNED LN	Modesto CA 95357	\$26.00
079-005-026-000	MCCARTHY JAMES & TAMRA	813 LARNED LN	Modesto CA 95357	\$26.00
079-005-027-000	CHEN GEORGE CHONG JYH & HOLLY YUN YAN	809 LARNED LN	Modesto CA 95357	\$26.00
079-005-028-000	VAN DIEMEN MICHAEL B & VAN DIEMEN LAURI L	805 LARNED LN	Modesto CA 95357	\$26.00
079-005-029-000	LIGHT MARK T & WRIGHT LUCILA	3909 GOODLAND CT	Modesto CA 95357	\$26.00
079-005-030-000	LUCAS THOMAS M III & LUCAS LISA M	3905 GOODLAND CT	Modesto CA 95357	\$26.00
079-005-031-000	BARKLEY JOSEPH E TR	3900 GOODLAND CT	Modesto CA 95357	\$26.00
079-005-032-000	BROOKS CHARLES A & SUSAN D TRS	3904 GOODLAND CT	Modesto CA 95357	\$26.00
079-005-033-000	GAMBOA BENITO & ANGELICA	3908 GOODLAND CT	Modesto CA 95357	\$26.00
079-005-034-000	MORALES SHARON & LUIS	3912 GOODLAND CT	Modesto CA 95357	\$26.00
079-005-035-000	YOUNGER ROGER COLEMAN & LAURA JEAN TRS	3916 GOODLAND CT	Modesto CA 95357	\$26.00
079-005-036-000	COLE TINA M	3920 GOODLAND CT	Modesto CA 95357	\$26.00
079-005-037-000	ALVARADO MARIA D	800 LARNED LN	Modesto CA 95357	\$26.00
079-005-038-000	PALMERIN JOSE DE JESUS	804 LARNED LN	Modesto CA 95357	\$26.00
079-005-039-000	NUNEZ OMAR AYON	808 LARNED LN	Modesto CA 95357	\$26.00
079-005-040-000	AZUETA ORLANDO & ALAVAREZ LAURA CISNEROS	812 LARNED LN	Modesto CA 95357	\$26.00
079-005-041-000	CAMARENA JESUS D ET AL	816 LARNED LN	Modesto CA 95357	\$26.00
079-005-042-000	MORAD EDMOND & MORAD CARMEN	820 LARNED LN	Modesto CA 95357	\$26.00
079-005-043-000	BROWN DANNY ARTHUR & CHRISTINA	824 LARNED LN	Modesto CA 95357	\$26.00
079-006-001-000	SARETH JESSIE ET AL	737 WADDELL WAY	Modesto CA 95357	\$26.00
079-006-002-000	NASSER MOHAMED	741 WADDELL WAY	Modesto CA 95357	\$26.00
079-006-003-000	TORRES ANTHONY RENE JR ET AL	745 WADDELL WAY	Modesto CA 95357	\$26.00
079-006-004-000	CHHIM LIM	749 WADDELL WAY	Modesto CA 95357	\$26.00
079-006-005-000	FLORES J JESUS	753 WADDELL WAY	Modesto CA 95357	\$26.00
079-006-006-000	SAMOW HALA	757 WADDELL WAY	Modesto CA 95357	\$26.00
079-006-007-000	MICHAEL RAPHAEL ET AL	761 WADDELL WAY	Modesto CA 95357	\$26.00
079-006-008-000	REYES JIM R & REYES ELLEN S	765 WADDELL WAY	Modesto CA 95357	\$26.00
079-006-010-000	JOHNSON GERALD L ET AL	752 CODINGTON WAY	Modesto CA 95357	\$26.00
079-006-011-000	FELICIANO LIORITA A & RUSEL C	748 CODINGTON WAY	Modesto CA 95357	\$26.00
079-006-012-000	WEBB LAQUITA	744 CODINGTON WAY	Modesto CA 95357	\$26.00
079-006-013-000	GARCIA FRANCISCO & YOLANDA	740 CODINGTON WAY	Modesto CA 95357	\$26.00
079-006-014-000	MC CRARY MARY JANE	736 CODINGTON WAY	Modesto CA 95357	\$26.00
079-006-015-000	CHAVEZ ALEJANDRO PACHECO	732 CODINGTON WAY	Modesto CA 95357	\$26.00
079-006-016-000	TELLEZ MAURICE R & MARGARITA F	728 CODINGTON WAY	Modesto CA 95357	\$26.00
079-006-017-000	TELLEZ MAURICE R & MARGARITA F	724 CODINGTON WAY	Modesto CA 95357	\$26.00
079-006-018-000	SANTOS LUZ MARIA	720 CODINGTON WAY	Modesto CA 95357	\$26.00
079-006-019-000	SANTOS LUZ	716 CODINGTON WAY	Modesto CA 95357	\$26.00
079-006-020-000	PADILLA SALVADOR & PADILLA ANTONIA	712 CODINGTON WAY	Modesto CA 95357	\$26.00
079-006-021-000	PERROTTI PATRICK ET AL TRS	708 CODINGTON WAY	Modesto CA 95357	\$26.00
079-006-022-000	BAINS GURNAM S & BALVINDER K	704 CODINGTON WAY	Modesto CA 95355	\$26.00
079-006-023-000	LOTKO ANN E	700 CODINGTON WAY	Modesto CA 95357	\$26.00
079-006-024-000	PEREZ JUAN & SILVIA P TRS	640 CODINGTON WAY	Modesto CA 95357	\$26.00
079-006-025-000	RAM RAVI PRAKASH & RAM SANJILA PRAKASH	701 CODINGTON WAY	Modesto CA 95357	\$26.00
079-006-026-000	BANUELOS MARTHA E TR	705 CODINGTON WAY	Modesto CA 95357	\$26.00
079-006-027-000	ARROYO RAFAEL ARROYO & CHAVEZ GUADALUPE RAMIREZ	709 CODINGTON WAY	Modesto CA 95357	\$26.00
079-006-028-000	BENDERAS DAMARA	713 CODINGTON WAY	Modesto CA 95357	\$26.00
079-006-029-000	AGUIRRE ALICIA R	717 CODINGTON WAY	Modesto CA 95357	\$26.00
079-006-030-000	GOMEZ FRANCISCO J & PATRICIA	721 CODINGTON WAY	Modesto CA 95357	\$26.00
079-006-031-000	BAINS GURNAM S & BALVINDER K	725 CODINGTON WAY	Modesto CA 95357	\$26.00
079-006-032-000	FIGUEROA LUIS E & FIGUEROA ISABEL L	729 CODINGTON WAY	Modesto CA 95357	\$26.00
079-006-033-000	CARROLL EDWIN JOSEPH II & LEPE-CARROLL CONNIE LEA	733 CODINGTON WAY	Modesto CA 95357	\$26.00

Fee Parcel	Owner	Address	City State Zip	2022-23 Ast.
079-006-034-000	AMBROSICH STEPHEN F TR	737 CODINGTON WAY	Modesto CA 95357	\$26.00
079-006-035-000	MOLINA GIOVANI & ORTEGA MARIA ESTHER TALAVERA	741 CODINGTON WAY	Modesto CA 95357	\$26.00
079-006-036-000	GALE MARK D II & DEBRA L TRS	745 CODINGTON WAY	Modesto CA 95354	\$26.00
079-006-037-000	SILLEMONT ANTHONY	749 CODINGTON WAY	Modesto CA 95357	\$26.00
079-006-038-000	GUZMAN JESUS A	744 CARRBORO LN	Modesto CA 95357	\$26.00
079-006-039-000	LOUCKS DAVID GEORGE & JOSEFA M TRS	740 CARRBORO LN	Modesto CA 95357	\$26.00
079-006-040-000	PATRICK ANTONIO	736 CARRBORO LN	Modesto CA 95357	\$26.00
079-006-041-000	PALOMERA HECTOR MANUEL	732 CARRBORO LN	Modesto CA 95357	\$26.00
079-006-042-000	WILLIAMS MARLON & NENA	728 CARRBORO LN	Modesto CA 95357	\$26.00
079-006-043-000	DEBERRY GARY L & ALICE	724 CARRBORO LN	Modesto CA 95357	\$26.00
079-006-044-000	LAMPROE LEONARD C & LAMPROE MARY A	720 CARRBORO LN	Modesto CA 95357	\$26.00
079-006-045-000	GARCIA FELIPE & FLORES BLANCA	716 CARRBORO LN	Modesto CA 95357	\$26.00
079-006-046-000	ODISHO DAVID & ODISHO JULIET	712 CARRBORO LN	Modesto CA 95357	\$26.00
079-006-047-000	LI ZHIHE & HUANG LIFEI	708 CARRBORO LN	Modesto CA 95357	\$26.00
079-006-048-000	DAVID VIRGEEN	704 CARRBORO LN	Modesto CA 95357	\$26.00
079-006-049-000	CONN HILARY A & GARY	700 CARRBORO LN	Modesto CA 95357	\$26.00
079-007-001-000	CHOW MINH LU ET AL	729 WADDELL WAY	Modesto CA 95354	\$26.00
079-007-002-000	JORGENSEN FRANK E & MIRIAM M TRS	725 WADDELL WAY	Modesto CA 95357	\$26.00
079-007-003-000	GASPAR JENNIFER L	721 WADDELL WAY	Modesto CA 95357	\$26.00
079-007-004-000	PENALOSA FABIAN HERNANDEZ	717 WADDELL WAY	Modesto CA 95357	\$26.00
079-007-005-000	L & D RENTALS LLC	713 WADDELL WAY	Modesto CA 95357	\$26.00
079-007-006-000	GUTIERREZ DIEGO	709 WADDELL WAY	Modesto CA 95357	\$26.00
079-007-007-000	SHANDIL SHALESH & IRENE R	705 WADDELL WAY	Modesto CA 95357	\$26.00
079-007-008-000	MC CLURE JODI PENIRIAN	701 WADDELL WAY	Modesto CA 95357	\$26.00
079-007-009-000	FERNANDEZ RAMIRO & ALMA	669 WADDELL WAY	Modesto CA 95357	\$26.00
079-007-010-000	ZAMORA GUILLERMO	665 WADDELL WAY	Modesto CA 95357	\$26.00
079-007-011-000	STOLLBERG WILLIAM R & HOAI TRS	661 WADDELL WAY	Modesto CA 95354	\$26.00
079-007-012-000	L & D RENTALS LLC	657 WADDELL WAY	Modesto CA 95357	\$26.00
079-007-013-000	BAINS KABAL S & JASBIR K	653 WADDELL WAY	Modesto CA 95357	\$26.00
079-007-014-000	BAKER OUTIN MARLENE	649 WADDELL WAY	Modesto CA 95357	\$26.00
079-007-015-000	MARSELLA BARBARA A	645 WADDELL WAY	Modesto CA 95357	\$26.00
079-007-016-000	ROQUE DARWIN ET AL	641 WADDELL WAY	Modesto CA 95357	\$26.00
079-007-017-000	RUIZ IGNACIO VASQUEZ ET AL	648 WADDELL WAY	Modesto CA 95357	\$26.00
079-007-018-000	HANSON LARRY P & DORA	652 WADDELL WAY	Modesto CA 95357	\$26.00
079-007-019-000	MENDEZ HILARIO	656 WADDELL WAY	Modesto CA 95350	\$26.00
079-007-020-000	AMBRIZ MARIO G	721 RIEDSVILLE CT	Modesto CA 95357	\$26.00
079-007-021-000	SMITH SCOTT ROYAL TR	717 RIEDSVILLE CT	Modesto CA 95354	\$26.00
079-007-022-000	ZAVALA JOHN & YVONNE	713 RIEDSVILLE CT	Modesto CA 95357	\$26.00
079-007-023-000	ACOSTA DAVID ET AL	716 RIEDSVILLE CT	Modesto CA 95357	\$26.00
079-007-024-000	SCHULTZ BRENDA J & RONALD	720 RIEDSVILLE CT	Modesto CA 95357	\$26.00
079-007-025-000	RIVERA RAMON ET AL	712 WADDELL WAY	Modesto CA 95357	\$26.00
079-007-026-000	PALMERIN ERNESTO & MARIA	716 WADDELL WAY	Modesto CA 95357	\$26.00
079-007-027-000	MOLES EDWARD A & DIAMOND SUSAN H TRS	720 WADDELL WAY	Modesto CA 95357	\$26.00
079-007-028-000	SOTO ANABEL	724 WADDELL WAY	Modesto CA 95357	\$26.00
079-007-029-000	TRIMBLE BRENDA E	728 WADDELL WAY	Modesto CA 95354	\$26.00
079-007-030-000	POZZOULI JOHN L	732 WADDELL WAY	Modesto CA 95357	\$26.00
079-007-031-000	SINGH SURUJ B & SINGH LACHMI BAI	736 WADDELL WAY	Modesto CA 95357	\$26.00
079-007-032-000	DE LA TORRE CONRADO & ROSEMARY TRS	740 WADDELL WAY	Modesto CA 95357	\$26.00
079-007-033-000	MARCIANO ARMANDO D & MARCIANO REMEDIOS R	737 CARRBORO LN	Modesto CA 95357	\$26.00
079-007-034-000	PLACE GREGORY & SHERI L	733 CARRBORO LN	Modesto CA 95357	\$26.00
079-007-035-000	MECIA MIGUEL A & ASPEN	729 CARRBORO LN	Modesto CA 95357	\$26.00
079-007-036-000	ZUNIGA ANDRES PEREZ & GARCIA LIZETH L	725 CARRBORO LN	Modesto CA 95357	\$26.00
079-007-037-000	CEJA BEATRICE	721 CARRBORO LN	Modesto CA 95357	\$26.00
079-007-038-000	GONZALES ELBA CRISTINA	717 CARRBORO LN	Modesto CA 95357	\$26.00
079-007-039-000	HARRISON KAREN S	713 CARRBORO LN	Modesto CA 95357	\$26.00

Fee Parcel	Owner	Address	City State Zip	2022-23 Ast.
079-007-040-000	VILLALOVOS ART ROBERT & YOLANDA	709 CARRBORO LN	Modesto CA 95357	\$26.00
079-007-041-000	HARPER MICHAEL P & LILLIE M	700 CHADBURN CT	Modesto CA 95357	\$26.00
079-007-042-000	JACKSON JONATHAN & ADONA	704 CHADBURN CT	Modesto CA 95357	\$26.00
079-007-043-000	DIAS JEREMIAH A ET AL	708 CHADBURN CT	Modesto CA 95357	\$26.00
079-007-044-000	SAMRA GURDIP & PREET	712 CHADBURN CT	Modesto CA 95357	\$26.00
079-007-045-000	ROBLES RICHELLE & YULO JOHN	716 CHADBURN CT	Modesto CA 95357	\$26.00
079-007-046-000	MEZA JACQUELINE M	720 CHADBURN CT	Modesto CA 95354	\$26.00
079-007-047-000	TRUESDAIL SHELBY J	724 CHADBURN CT	Modesto CA 95357	\$26.00
079-007-048-000	BAHI EILEEN	721 CHADBURN CT	Modesto CA 95354	\$26.00
079-007-049-000	IBARRA JUANA	717 CHADBURN CT	Modesto CA 95357	\$26.00
079-007-050-000	YEFREMENKO ALEKSEY & CANDICE	713 CHADBURN CT	Modesto CA 95357	\$26.00
079-007-051-000	ROJAS VICENTE ET AL	709 CHADBURN CT	Modesto CA 95357	\$26.00
079-007-052-000	ESTRADA-GAMBOA RAMON	705 CHADBURN CT	Modesto CA 95355	\$26.00
079-007-053-000	SILVEIRA FERNANDA	3725 CREEDMOOR AVE	Modesto CA 95357	\$26.00
079-007-054-000	LUTZOW JOHN P	3721 CREEDMOOR AVE	Modesto CA 95357	\$26.00
079-007-055-000	PEREZ JOSE P & PEREZ ROSA M	3717 CREEDMOOR AVE	Modesto CA 95357	\$26.00
079-007-056-000	SKOCHKO KATHLEEN A & SKOCHKO RICHARD A	3713 CREEDMOOR AVE	Modesto CA 95357	\$26.00
079-007-057-000	DAVIS JAMES R & DAVIS LETECIA B	3709 CREEDMOOR AVE	Modesto CA 95354	\$26.00
079-008-001-000	BUAYA DAVID TR	620 N MC CLURE RD	Modesto CA 95357	\$26.00
079-008-002-000	ALI SYED ARIF & ARIF SHAZIA	616 N MC CLURE RD	Modesto CA 95357	\$26.00
079-008-003-000	CONCHAS SANDRA H	612 N MC CLURE RD	Modesto CA 95356	\$26.00
079-008-004-000	RENO FRED W	608 N MC CLURE RD	Modesto CA 95354	\$26.00
079-008-005-000	CHAND VIJAY & MATI SOHAN	604 N MC CLURE RD	Modesto CA 95354	\$26.00
079-008-006-000	CHAND VIJAY V ET AL	600 N MC CLURE RD	Modesto CA 95357	\$26.00
079-008-007-000	JACKSON MATTHEW & JACKSON SUZANNA	564 N MC CLURE RD	Modesto CA 95357	\$26.00
079-008-008-000	WARD DONALD G & CARLILE-WARD CARRIE LYNN	560 N MC CLURE RD	Modesto CA 95354	\$26.00
079-008-009-000	MOUNDI HARINDER K & GURDIAL SINGH W	556 N MC CLURE RD	Modesto CA 95354	\$26.00
079-008-010-000	BORGES FRANK J	552 N MC CLURE RD	Modesto CA 95357	\$26.00
079-008-011-000	MILLER THOMAS H TR	548 N MC CLURE RD	Modesto CA 95357	\$26.00
079-008-012-000	PRASAD DHARMEND	544 N MC CLURE RD	Modesto CA 95357	\$26.00
079-008-013-000	MAHARAJ ARUNA & SANJAI S	540 N MC CLURE RD	Modesto CA 95357	\$26.00
079-008-014-000	TAGRE ABEL JOSE & TERRIE MARIE TRS	536 N MC CLURE RD	Modesto CA 95357	\$26.00
079-008-015-000	RODRIGUEZ ROBERTA L & GUILLEN OSCAR J	501 REDFIELD AVE	Modesto CA 95357	\$26.00
079-008-016-000	SABLOK SATISH KUMAR & RENUKA TRS	505 REDFIELD AVE	Modesto CA 95357	\$26.00
079-008-017-000	PEEK CHARLES & PEEK ADRIENNE	509 REDFIELD AVE	Modesto CA 95357	\$26.00
079-008-018-000	KINCHELOE KAREN TR	513 REDFIELD AVE	Modesto CA 95357	\$26.00
079-008-019-000	SHARMA UMA L	517 REDFIELD AVE	Modesto CA 95357	\$26.00
079-008-020-000	CARDOSO JOHN P	521 REDFIELD AVE	Modesto CA 95357	\$26.00
079-008-021-000	BATES SEAN & LAURA	525 REDFIELD AVE	Modesto CA 95357	\$26.00
079-008-022-000	ZERMENO RAUL R & MARIA LETICIA TRS	529 REDFIELD AVE	Modesto CA 95357	\$26.00
079-008-023-000	ZARAGOZA RICARDO	533 REDFIELD AVE	Modesto CA 95357	\$26.00
079-008-024-000	MONTGOMERY KENNITHA	601 REDFIELD AVE	Modesto CA 95357	\$26.00
079-008-025-000	JEET JERMY S	605 REDFIELD AVE	Modesto CA 95357	\$26.00
079-008-026-000	BROWER PROPERTIES 3 LLC	609 REDFIELD AVE	Modesto CA 95357	\$26.00
079-008-027-000	KUMAR PRANEEL	613 REDFIELD AVE	Modesto CA 95357	\$26.00
079-008-028-000	CV RESIDENTIAL LLC	617 REDFIELD AVE	Modesto CA 95357	\$26.00
079-008-029-000	PRAK DEBBIE & MANANQUIL DEXTER	3516 DRY CREEK DR	Modesto CA 95357	\$26.00
079-008-030-000	BROWN CAROL C TR	3520 DRY CREEK DR	Modesto CA 95357	\$26.00
079-008-031-000	WRIGHT JACQUELINE L TR	3524 DRY CREEK DR	Modesto CA 95354	\$26.00
079-008-032-000	HARDY RICK L & LYNN P	3528 DRY CREEK DR	Modesto CA 95357	\$26.00
079-008-033-000	VEGA DANIEL	3532 DRY CREEK DR	Modesto CA 95357	\$26.00
079-008-034-000	CARRILLO OLIVIA ET AL	3536 DRY CREEK DR	Modesto CA 95357	\$26.00
079-008-035-000	SINGH KULDIP & KOUR JASBIR	3600 DRY CREEK DR	Modesto CA 95357	\$26.00
079-008-036-000	MENDOZA RAFAEL ROSALES	3604 DRY CREEK DR	Modesto CA 95357	\$26.00
079-008-037-000	ORTIZ MATIAS & ORTIZ JOSEFINA	3608 DRY CREEK DR	Modesto CA 95357	\$26.00

Fee Parcel	Owner	Address	City State Zip	2022-23 Ast.
079-008-038-000	BROWN DALE LEE & VANESSA MARIE	3612 DRY CREEK DR	Modesto CA 95357	\$26.00
079-008-039-000	NEY GARY III	3616 DRY CREEK DR	Modesto CA 95357	\$26.00
079-008-040-000	ECKLES ROBERT S & ECKLES JULIE L	3620 DRY CREEK DR	Modesto CA 95357	\$26.00
079-008-041-000	SINGH SHALVIN V & SEN ADREEN JYOTISH	3624 DRY CREEK DR	Modesto CA 95357	\$26.00
079-008-042-000	MALLEY KATHERINE S	3628 DRY CREEK DR	Modesto CA 95357	\$26.00
079-008-043-000	KELLER ALFRED W	3632 DRY CREEK DR	Modesto CA 95357	\$26.00
079-008-044-000	DAVIS LUELLE B & DAVIS WAYNE W	3636 DRY CREEK DR	Modesto CA 95357	\$26.00
079-008-045-000	HERNANDEZ FRANK J & DIANA C	3640 DRY CREEK DR	Modesto CA 95357	\$26.00
079-008-046-000	STAMPS GENE A & GLORIA M	532 WILMONT LN	Modesto CA 95357	\$26.00
079-008-047-000	JIMENEZ GERARDO	536 WILMONT LN	Modesto CA 95357	\$26.00
079-008-048-000	MATULIS ERIC A	3633 HIGHMORE LN	Modesto CA 95357	\$26.00
079-008-049-000	CHIU JOSEPH CHI TSUN & LEE HELEN LAI TRS	3629 HIGHMORE LN	Modesto CA 95357	\$26.00
079-008-050-000	FARA AHMED & FARA MUFDHLA	3625 HIGHMORE LN	Modesto CA 95357	\$26.00
079-008-051-000	JAUREGUI HORACIO J & SUSANA	3621 HIGHMORE LN	Modesto CA 95357	\$26.00
079-008-052-000	CISNEROS MARTIN T & CISNEROS MELISSA	3617 HIGHMORE LN	Modesto CA 95357	\$26.00
079-008-053-000	SINGH PREM	3613 HIGHMORE LN	Modesto CA 95357	\$26.00
079-008-054-000	WHITAKER SAUDIA F	3609 HIGHMORE LN	Modesto CA 95357	\$26.00
079-008-055-000	PRASAD JACK J & RESHMA D	3605 HIGHMORE LN	Modesto CA 95357	\$26.00
079-008-056-000	GUTIERREZ JESUS & MARIA DE JESUS	3601 HIGHMORE LN	Modesto CA 95357	\$26.00
079-008-057-000	VELAZQUEZ MANUEL D JR & ELENA	3533 HIGHMORE LN	Modesto CA 95357	\$26.00
079-008-058-000	POSLANIEC COBY L	3529 HIGHMORE LN	Modesto CA 95357	\$26.00
079-008-059-000	SADA FRED & JACKIE H	3525 HIGHMORE LN	Modesto CA 95357	\$26.00
079-008-060-000	MEDINA ROBERTO LEON & MARIA DE LOS ANGELES TRS	3521 HIGHMORE LN	Modesto CA 95357	\$26.00
079-008-061-000	AVILA ELISEO G ET AL	3517 HIGHMORE LN	Modesto CA 95357	\$26.00
079-008-062-000	KAUR NAVDEEP & SINGH DALVIR	3513 HIGHMORE LN	Modesto CA 95357	\$26.00
079-009-003-000	MARTINEZ CRYSTAL TR	3629 ARDIA AVE	Modesto CA 95357	\$26.00
079-009-004-000	POK NAVEEN & VEULVILAVONG AMMONE	3625 ARDIA AVE	Modesto CA 95353	\$26.00
079-009-005-000	WRIGHT ROBERT T TR	3621 ARDIA AVE	Modesto CA 95357	\$26.00
079-009-006-000	DALMAN NINON M	3617 ARDIA AVE	Modesto CA 95357	\$26.00
079-009-007-000	VARGAS ROBERT S & MARTHA V	3613 ARDIA AVE	Modesto CA 95357	\$26.00
079-009-008-000	RUSH ROBERT P SR & PATRICIA L	3609 ARDIA AVE	Modesto CA 95357	\$26.00
079-009-009-000	CICCONE LEANN	3605 ARDIA AVE	Modesto CA 95357	\$26.00
079-009-010-000	CAMBA JOSEPH	3601 ARDIA AVE	Modesto CA 95357	\$26.00
079-009-011-000	NAIRN DENNIS & REBECCA	3533 ARDIA AVE	Modesto CA 95357	\$26.00
079-009-012-000	MONDRAGON LUIS JR	3529 ARDIA AVE	Modesto CA 95357	\$26.00
079-009-013-000	JOHAL SUKHWINDER KAUR & JASBIR S SINGH	3525 ARDIA AVE	Modesto CA 95357	\$26.00
079-009-014-000	THANDI H S & S K	3521 ARDIA AVE	Modesto CA 95357	\$26.00
079-009-015-000	RAMOS FERNANDO A & MONSELLE TESSA JANINE	3517 ARDIA AVE	Modesto CA 95357	\$26.00
079-009-016-000	MARTINEZ TONY R JR	3513 ARDIA AVE	Modesto CA 95357	\$26.00
079-009-017-000	FIGUEROA JASMINE E	3512 BALFOUR LN	Modesto CA 95357	\$26.00
079-009-018-000	GREWAL JASKIRAN	3516 BALFOUR LN	Modesto CA 95357	\$26.00
079-009-019-000	OGDEN ROBERT C & DEBORAH A TRS	3520 BALFOUR LN	Modesto CA 95357	\$26.00
079-009-020-000	FOUNTAIN TIMOTHY J & FOUNTAIN DEBORAH A	3524 BALFOUR LN	Modesto CA 95357	\$26.00
079-009-021-000	TOBON LAURO I CORTES & CORTES MARY CARMEN	3528 BALFOUR LN	Modesto CA 95357	\$26.00
079-009-022-000	COLLS LUIS R TR	3600 BALFOUR LN	Modesto CA 95357	\$26.00
079-009-023-000	MANRIQUEZ UBALDO & DORA	3604 BALFOUR LN	Modesto CA 95357	\$26.00
079-009-024-000	AMEREL CLEVE & ROSA	3608 BALFOUR LN	Modesto CA 95357	\$26.00
079-009-025-000	JOHNSON SOUNITA ET AL	3612 BALFOUR LN	Modesto CA 95354	\$26.00
079-009-026-000	LEWMAN-KUNKLER BRENDA F TR	3616 BALFOUR LN	Modesto CA 95357	\$26.00
079-009-027-000	LEE DAVID S & HU YANTING	3620 BALFOUR LN	Modesto CA 95357	\$26.00
079-009-028-000	GONZALEZ ALFONSO CHAVEZ & RAMPONI-CHAVEZ JUDY	3624 BALFOUR LN	Modesto CA 95357	\$26.00
079-009-029-000	SANCHEZ HUGO & ZENAIDA	3628 BALFOUR LN	Modesto CA 95357	\$26.00
079-009-030-000	TOMLINSON MARK S & TOMLINSON JENNIFER D	3632 BALFOUR LN	Modesto CA 95357	\$26.00
079-009-031-000	GOVEA PETER C & CAROL M TRS	512 WILMONT LN	Modesto CA 95357	\$26.00
079-009-032-000	CERVANTES JUAN MANUEL OCEGUERA & CASILLAS ROCIO	516 WILMONT LN	Modesto CA 95357	\$26.00

Fee Parcel	Owner	Address	City State Zip	2022-23 Ast.
	ME			
079-009-033-000	KHOURY TANIA SALIBA	520 WILMONT LN	Modesto CA 95351	\$26.00
079-009-034-000	BARRY MAGED	524 WILMONT LN	Modesto CA 95355	\$26.00
079-009-035-000	BIZZINI KELLY A	528 WILMONT LN	Modesto CA 95357	\$26.00
079-009-036-000	MARTINEZ PEDRO & HERNANDEZ APRIL	3628 HIGHMORE LN	Modesto CA 95357	\$26.00
079-009-037-000	RAMIREZ JESUS ET AL	3624 HIGHMORE LN	Modesto CA 95357	\$26.00
079-009-038-000	CERDA CENDEJAS GONZALO ET AL	3620 HIGHMORE LN	Modesto CA 95357	\$26.00
079-009-039-000	WILHELM DENNIS & WILHELM JANICE	3616 HIGHMORE LN	Modesto CA 95357	\$26.00
079-009-040-000	CASTRO MARIA	3612 HIGHMORE LN	Modesto CA 95357	\$26.00
079-009-041-000	VIZCARRA JOSE A	3608 HIGHMORE LN	Modesto CA 95357	\$26.00
079-009-042-000	FERREZ LIDIA E ET AL	3604 HIGHMORE LN	Modesto CA 95357	\$26.00
079-009-043-000	ZAYA SAMIA	3600 HIGHMORE LN	Modesto CA 95354	\$26.00
079-009-044-000	CHIU CHARLES	3528 HIGHMORE LN	Modesto CA 95357	\$26.00
079-009-045-000	FORBES DEENA M ET AL	3524 HIGHMORE LN	Modesto CA 95357	\$26.00
079-009-046-000	LITTMANN PETER & TAMARA	3520 HIGHMORE LN	Modesto CA 95355	\$26.00
079-009-047-000	MANI LOGESH & SADHANA	3516 HIGHMORE LN	Modesto CA 95357	\$26.00
079-009-048-000	KUMAR KAMIL ET AL	3512 HIGHMORE LN	Modesto CA 95357	\$26.00
079-009-049-000	ESQUIVEL DIANA ACEVES DE	3513 BALFOUR LN	Modesto CA 95357	\$26.00
079-009-050-000	PRECIADO CINDY	3517 BALFOUR LN	Modesto CA 95357	\$26.00
079-009-051-000	KUMAR AMAR	3521 BALFOUR LN	Modesto CA 95357	\$26.00
079-009-052-000	PETERSON KAREN TR	3525 BALFOUR LN	Modesto CA 95357	\$26.00
079-009-053-000	PRAKASH SUSHEEL & DEVI VINITA	3529 BALFOUR LN	Modesto CA 95357	\$26.00
079-009-054-000	OSHANA DOONA H	3533 BALFOUR LN	Modesto CA 95357	\$26.00
079-009-055-000	VERSOLA KENNETH O ET AL TRS	3601 BALFOUR LN	Modesto CA 95357	\$26.00
079-009-056-000	MARTINEZ RICHARD A & MARTINEZ MARTHA S	3605 BALFOUR LN	Modesto CA 95354	\$26.00
079-009-057-000	VALADEZ JENISSA	3609 BALFOUR LN	Modesto CA 95357	\$26.00
079-009-058-000	HEDRICK KENNETH L & HEDRICK MARGIE	3613 BALFOUR LN	Modesto CA 95357	\$26.00
079-009-059-000	WASPE LAWRENCE E MD	3617 BALFOUR LN	Modesto CA 95357	\$26.00
079-009-060-000	RODRIGUEZ MARIO & RODRIGUEZ SONIA	3621 BALFOUR LN	Modesto CA 95357	\$26.00
079-009-061-000	CISNEROS STEVE P & CISNEROS ELVIRA	3625 BALFOUR LN	Modesto CA 95357	\$26.00
079-009-062-000	DAVIS RODGER & STACY	3633 ARDIA AVE	Modesto CA 95357	\$26.00
079-010-001-000	HORLICK LUPE CASTILLO ET AL	609 WADDELL WAY	Modesto CA 95357	\$26.00
079-010-002-000	ORTEGA ANGEL GABRIEL	613 WADDELL WAY	Modesto CA 95357	\$26.00
079-010-003-000	TAYLOR DAVID & CHRISTINE	617 WADDELL WAY	Modesto CA 95357	\$26.00
079-010-004-000	LEWIS LA VONA L TR	621 WADDELL WAY	Modesto CA 95357	\$26.00
079-010-005-000	JOHAL TAJINDER & KAUR GURPREET	625 WADDELL WAY	Modesto CA 95357	\$26.00
079-010-006-000	BROWER PROPERTIES 2 LLC	629 WADDELL WAY	Modesto CA 95351	\$26.00
079-010-007-000	BELLIDO RAUL & MERCEDES	633 WADDELL WAY	Modesto CA 95357	\$26.00
079-010-008-000	OLVERA JOSE A	637 WADDELL WAY	Modesto CA 95357	\$26.00
079-010-009-000	PRASAD BINESARI & SATYA W	3700 CREEDMOOR AVE	Modesto CA 95357	\$26.00
079-010-010-000	LERINDEGUI JOYCE C ET AL	3704 CREEDMOOR AVE	Modesto CA 95357	\$26.00
079-010-011-000	TRIO DONNA M	3708 CREEDMOOR AVE	Modesto CA 95357	\$26.00
079-010-012-000	PRASAD RAKESH	3712 CREEDMOOR AVE	Modesto CA 95357	\$26.00
079-010-013-000	ANTONIO MARIA ET AL	3716 CREEDMOOR AVE	Modesto CA 95357	\$26.00
079-010-014-000	STOCKAND MIMI M	3720 CREEDMOOR AVE	Modesto CA 95357	\$26.00
079-010-015-000	ANDRADE ALEX V ET AL	3724 CREEDMOOR AVE	Modesto CA 95357	\$26.00
079-010-016-000	GONZALES JOSEPH R	3728 CREEDMOOR AVE	Modesto CA 95357	\$26.00
079-010-017-000	NELSON RONALD J	3732 CREEDMOOR AVE	Modesto CA 95357	\$26.00
079-010-018-000	GARIBAY GABRIELA & VICTOR ALVAREZ	3736 CREEDMOOR AVE	Modesto CA 95357	\$26.00
079-010-019-000	CHIANG STANLEY & EMILY	3800 CREEDMOOR AVE	Modesto CA 95357	\$26.00
079-010-020-000	AU-YEUNG CHI & AU-YEUNG TZE HING LAM	3804 CREEDMOOR AVE	Modesto CA 95357	\$26.00
079-010-021-000	SALDANA BENJAMIN	3808 CREEDMOOR AVE	Modesto CA 95357	\$26.00
079-010-022-000	VELAZQUEZ RAUL & VELAZQUEZ MARIBEL	3812 CREEDMOOR AVE	Modesto CA 95355	\$26.00
079-010-023-000	XIAOKUN ZHI	3816 CREEDMOOR AVE	Modesto CA 95357	\$26.00
079-010-024-000	STEWART ALLAN HENRY ET AL TRS	3900 CREEDMOOR AVE	Modesto CA 95357	\$26.00

Fee Parcel	Owner	Address	City State Zip	2022-23 Ast.
079-010-025-000	JAMES GLORIA R	3904 CREEDMOOR AVE	Modesto CA 95357	\$26.00
079-010-026-000	RIVERA PAUL C & CARMEN	3908 CREEDMOOR AVE	Modesto CA 95357	\$26.00
079-010-027-000	KUMAR ABINESH	3912 CREEDMOOR AVE	Modesto CA 95357	\$26.00
079-010-028-000	NAMO ALEN	3916 CREEDMOOR AVE	Modesto CA 95357	\$26.00
079-010-029-000	DYRCZ JEFFREY LEE TR	636 CODINGTON WAY	Modesto CA 95357	\$26.00
079-010-030-000	BATTH GURMEET & MANJIT	632 CODINGTON WAY	Modesto CA 95357	\$26.00
079-010-031-000	LYND RICHARD CARROLL	628 CODINGTON WAY	Modesto CA 95357	\$26.00
079-010-032-000	BOWERS MARY P TR	624 CODINGTON WAY	Modesto CA 95357	\$26.00
079-010-033-000	OROZCO VINCENT A & SABRINA E	620 CODINGTON WAY	Modesto CA 95357	\$26.00
079-010-034-000	KING VERONICA	3925 DILLINGHAM AVE	Modesto CA 95357	\$26.00
079-010-035-000	HALE DENNA MICHAEL ET AL TRS	3921 DILLINGHAM AVE	Modesto CA 95357	\$26.00
079-010-036-000	CHARLES TIMOTHY M & CHARLES LISA A	3917 DILLINGHAM AVE	Modesto CA 95357	\$26.00
079-010-037-000	GALLEGOS ELIDIA	3913 DILLINGHAM AVE	Modesto CA 9535	\$26.00
079-010-038-000	RAMIREZ JUAN J & RAQUEL COSIO	3909 DILLINGHAM AVE	Modesto CA 95357	\$26.00
079-010-039-000	MARIGMEN VALERIANO M	3905 DILLINGHAM AVE	Modesto CA 95357	\$26.00
079-010-040-000	VHAN SUNILA TR	3901 DILLINGHAM AVE	Modesto CA 95357	\$26.00
079-010-041-000	PERA ADRIAN C	3825 DILLINGHAM AVE	Modesto CA 95357	\$26.00
079-010-042-000	BRESHEARS DONALD K	3821 DILLINGHAM AVE	Modesto CA 95357	\$26.00
079-010-043-000	DELGADO MIGUEL	3817 DILLINGHAM AVE	Modesto CA 95357	\$26.00
079-010-044-000	JESUS MANUEL A & MARY L TRS	3813 DILLINGHAM AVE	Modesto CA 95357	\$26.00
079-010-045-000	GUZMAN ALEJANDRA ROBLES	3809 DILLINGHAM AVE	Modesto CA 95357	\$26.00
079-010-046-000	MAYA JUAN PABLO BEJARANO	3805 DILLINGHAM AVE	Modesto CA 95357	\$26.00
079-010-047-000	ALBARRAN ARUTRO S & ALBARRAN CELIA P	3801 DILLINGHAM AVE	Modesto CA 95354	\$26.00
079-010-048-000	GALLO MARTIN & GALLO BEATRIZ	3725 DILLINGHAM AVE	Modesto CA 95357	\$26.00
079-010-049-000	SANTOS LUZ MARIA	3721 DILLINGHAM AVE	Modesto CA 95357	\$26.00
079-010-050-000	PEREZ JOSE P & ROSA M	3717 DILLINGHAM AVE	Modesto CA 95357	\$26.00
079-010-051-000	KUMAR ASHOK	3713 DILLINGHAM AVE	Modesto CA 95357	\$26.00
079-010-052-000	MADRIGAL ROBERT	3709 DILLINGHAM AVE	Modesto CA 95357	\$26.00
079-010-053-000	GARDALI CHARLES J TR	3705 DILLINGHAM AVE	Modesto CA 95357	\$26.00
079-010-054-000	JIAO HUIYING TR	3701 DILLINGHAM AVE	Modesto CA 95357	\$26.00
079-011-001-000	MOUNBUA CHANH ET AL	3700 DILLINGHAM AVE	Modesto CA 95354	\$26.00
079-011-002-000	VARGAS EDWARD J & RACHELLE DEE TRS	3704 DILLINGHAM AVE	Modesto CA 95357	\$26.00
079-011-003-000	LIANG JIN & CEN CHUNYAN	3708 DILLINGHAM AVE	Modesto CA 95357	\$26.00
079-011-004-000	KOCHOU NINOUS & DOMARINA	3712 DILLINGHAM AVE	Modesto CA 95357	\$26.00
079-011-005-000	BAIJAN GEORGE & YOUNAN MARIAM	3716 DILLINGHAM AVE	Modesto CA 95357	\$26.00
079-011-006-000	RODRIGUEZ MARCELINO & RODRIGUEZ ELENA	3720 DILLINGHAM AVE	Modesto CA 95357	\$26.00
079-011-007-000	CHUANGS INVESTMENT INC	3724 DILLINGHAM AVE	Modesto CA 95357	\$26.00
079-011-008-000	ALVES JASON L	3800 DILLINGHAM AVE	Modesto CA 95357	\$26.00
079-011-009-000	WONG SHERRE L TR	3804 DILLINGHAM AVE	Modesto CA 95357	\$26.00
079-011-010-000	COLIN JOSE LUIS FLORES & REMIGIO MARTHA MARISOL MA	3808 DILLINGHAM AVE	Modesto CA 95357	\$26.00
079-011-011-000	KINGSLEY BRANDON K & AMBER N	3812 DILLINGHAM AVE	Modesto CA 95357	\$26.00
079-011-012-000	STILLWELL VINCE & ESCOBAR EVELYN	3816 DILLINGHAM AVE	Modesto CA 95351	\$26.00
079-011-013-000	THOMPSON JAMES ROBERT JR	3820 DILLINGHAM AVE	Modesto CA 95357	\$26.00
079-011-014-000	CABRALES ALEJANDRO	3824 DILLINGHAM AVE	Modesto CA 95357	\$26.00
079-011-015-000	MARTINHO THERESA SILVA TR	3900 DILLINGHAM AVE	Modesto CA 95357	\$26.00
079-011-016-000	CONTRERAS JAVIER	3904 DILLINGHAM AVE	Modesto CA 95357	\$26.00
079-011-017-000	CABRERA MELINDA S	3908 DILLINGHAM AVE	Modesto CA 95357	\$26.00
079-011-018-000	VASQUEZ ROSA	3912 DILLINGHAM AVE	Modesto CA 95357	\$26.00
079-011-019-000	BAXTER RACHEL	3916 DILLINGHAM AVE	Modesto CA 95357	\$26.00
079-011-020-000	MENDEZ JOSE ALVAREZ & TERESA JESUS	3920 DILLINGHAM AVE	Modesto CA 95357	\$26.00
079-011-021-000	SAENGSOORY TONY & SAENGSOORY MARY	3924 DILLINGHAM AVE	Modesto CA 95357	\$26.00
079-011-022-000	MARQUEZ ELIZABETH K & MARQUEZ RICHARD R	616 CODINGTON WAY	Modesto CA 95357	\$26.00
079-011-023-000	TODD BRIAN EDWARD & TRISHA ANN	612 CODINGTON WAY	Modesto CA 95357	\$26.00
079-011-024-000	REGALADO JUAN	608 CODINGTON WAY	Modesto CA 95357	\$26.00
079-011-025-000	CEJA MIGUEL Y & BEATRICE	604 CODINGTON WAY	Modesto CA 95357	\$26.00

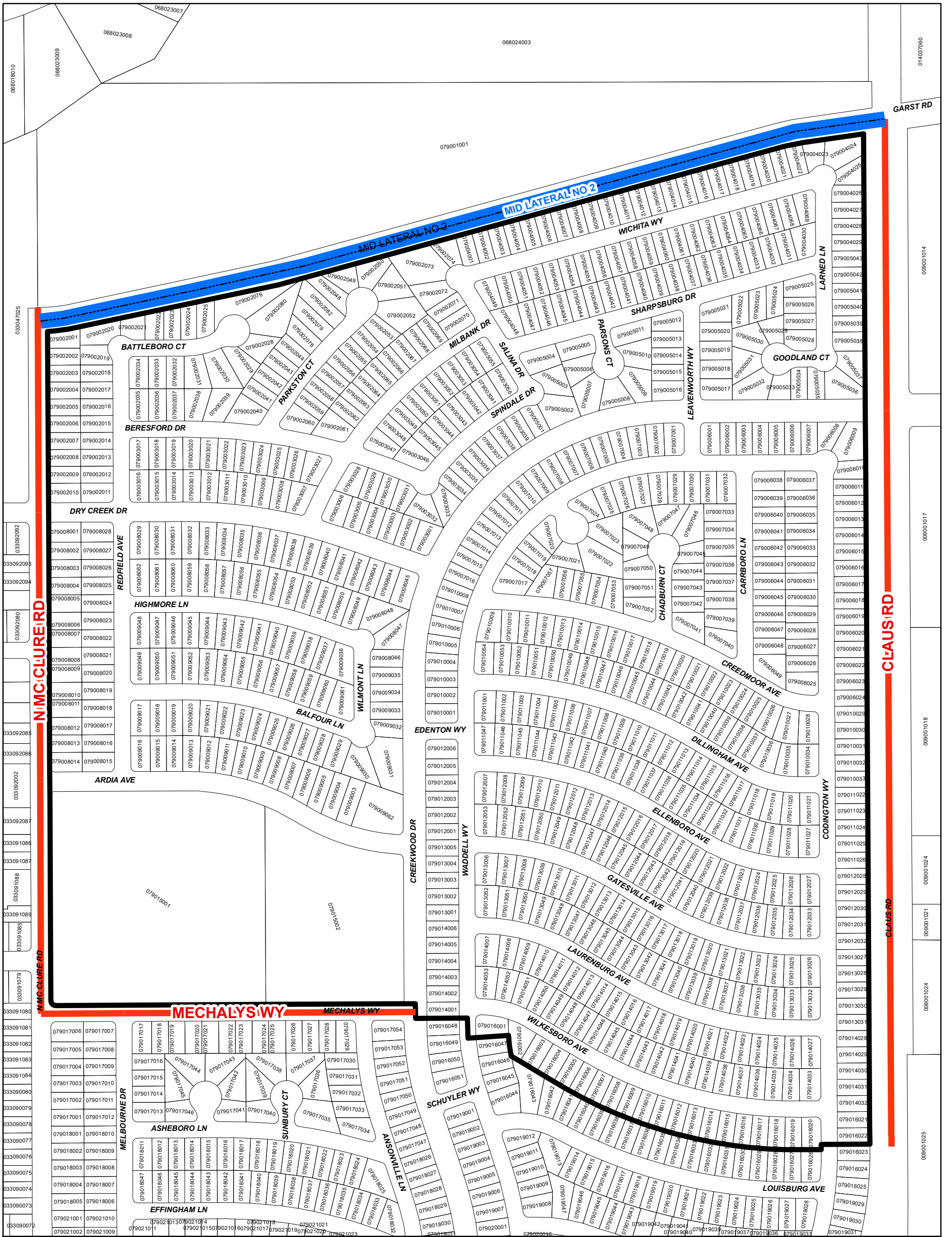
Fee Parcel	Owner	Address	City State Zip	2022-23 Ast.
079-011-026-000	MORALES STACIE A	600 CODINGTON WAY	Modesto CA 95357	\$26.00
079-011-027-000	BAUTISTA IRENE TR	3925 ELLENBORO AVE	Modesto CA 95357	\$26.00
079-011-028-000	MUSQUEZ MACARIO F & LISA M	3921 ELLENBORO AVE	Modesto CA 95357	\$26.00
079-011-029-000	DOMINGUEZ NATALIA M ET AL	3917 ELLENBORO AVE	Modesto CA 95357	\$26.00
079-011-030-000	MCKAY JAMES ALLEN & MARY LOU TRS	3913 ELLENBORO AVE	Modesto CA 95357	\$26.00
079-011-031-000	FERNANDEZ ELMA ET AL	3909 ELLENBORO AVE	Modesto CA 95351	\$26.00
079-011-032-000	FANG SUSAN XIUYA	3905 ELLENBORO AVE	Modesto CA 95357	\$26.00
079-011-033-000	MANI GYANESH & SHAKUNTALA	3901 ELLENBORO AVE	Modesto CA 95357	\$26.00
079-011-034-000	LOVE JAMES H & LOVE BRENDA W	3825 ELLENBORO AVE	Modesto CA 95357	\$26.00
079-011-035-000	LEVCHENKO LAURIE	3821 ELLENBORO AVE	Modesto CA 95357	\$26.00
079-011-036-000	KIRKBRIDE CHRISTOPHER CHARLES & LUISA R	3817 ELLENBORO AVE	Modesto CA 95357	\$26.00
079-011-037-000	GALLARDO CLAYTON LEON & VICTORIA SUSANNE	3813 ELLENBORO AVE	Modesto CA 95357	\$26.00
079-011-038-000	PADILLA ROBERTO	3809 ELLENBORO AVE	Modesto CA 95357	\$26.00
079-011-039-000	SPECK HALEY	3805 ELLENBORO AVE	Modesto CA 95357	\$26.00
079-011-040-000	ZAMORA ROBERTO CARLOS LULE & REZA PATRICIA	3801 ELLENBORO AVE	Modesto CA 95357	\$26.00
079-011-041-000	ALDAWOOD PETER SHLIMON & RIMA	3725 ELLENBORO AVE	Modesto CA 95357	\$26.00
079-011-042-000	MORRIS SAMUEL DAVID ET AL	3721 ELLENBORO AVE	Modesto CA 95357	\$26.00
079-011-043-000	LOPEZ DIANA MORENO	3717 ELLENBORO AVE	Modesto CA 95357	\$26.00
079-011-044-000	KEYGHALDI KARNAVAL & ESTER	3713 ELLENBORO AVE	Modesto CA 95351	\$26.00
079-011-045-000	COSTA WILMA D & DAVID JR	3709 ELLENBORO AVE	Modesto CA 95357	\$26.00
079-011-046-000	BURCIU VASILE & TABITA	3705 ELLENBORO AVE	Modesto CA 95357	\$26.00
079-011-047-000	CHIHIL JOSEPHINE U TR	3701 ELLENBORO AVE	Modesto CA 95357	\$26.00
079-012-001-000	HONBERGER ROBERT & HONBERGER LISA	541 WADDELL WAY	Modesto CA 95357	\$26.00
079-012-002-000	BETYAGHOUB VILHAM & LINDA	545 WADDELL WAY	Modesto CA 95357	\$26.00
079-012-003-000	WONG SAI YING & LIXIAN KUANG TRS	549 WADDELL WAY	Modesto CA 95357	\$26.00
079-012-004-000	KUWAMOTO LARRY & BETTY TRS	553 WADDELL WAY	Modesto CA 95357	\$26.00
079-012-005-000	CHAND ATISH & REENA	557 WADDELL WAY	Modesto CA 95357	\$26.00
079-012-006-000	PEERA ALBERTA	601 WADDELL WAY	Modesto CA 95357	\$26.00
079-012-007-000	SUAREZ-MILLAN THANIA A	3700 ELLENBORO AVE	Modesto CA 95357	\$26.00
079-012-008-000	MARENTES YESENIA	3704 ELLENBORO AVE	Modesto CA 95357	\$26.00
079-012-009-000	MOORE MICHAEL	3708 ELLENBORO AVE	Modesto CA 95357	\$26.00
079-012-010-000	KIDD BRIAN & KIDD KIMBERLY	3712 ELLENBORO AVE	Modesto CA 95357	\$26.00
079-012-011-000	ESTRADA JOSE & ALICIA	3716 ELLENBORO AVE	Modesto CA 95357	\$26.00
079-012-012-000	SERRANO GUADALUPE & MARIA ELENA	3720 ELLENBORO AVE	Modesto CA 95357	\$26.00
079-012-013-000	MIRANDA CYNTHIA & MAGANA JOSE LUIS BARRAGAN	3724 ELLENBORO AVE	Modesto CA 95357	\$26.00
079-012-014-000	GILL HARMAIL & DARSHAN	3800 ELLENBORO AVE	Modesto CA 95357	\$26.00
079-012-015-000	BARRIENTOS JAVIER & ARCADIA	3804 ELLENBORO AVE	Modesto CA 95357	\$26.00
079-012-016-000	CORRAL SANDRA	3808 ELLENBORO AVE	Modesto CA 95357	\$26.00
079-012-017-000	CHUANG TINA Y	3812 ELLENBORO AVE	Modesto CA 95357	\$26.00
079-012-018-000	AGAS JANELYN R	3816 ELLENBORO AVE	Modesto CA 95357	\$26.00
079-012-019-000	MADEROS KATHLEEN J	3820 ELLENBORO AVE	Modesto CA 95357	\$26.00
079-012-020-000	BRITZKE GARY T & BRITZKE PATRICIA L	3824 ELLENBORO AVE	Modesto CA 95357	\$26.00
079-012-021-000	PENA BERNIE & PENA TREANNA	3900 ELLENBORO AVE	Modesto CA 95357	\$26.00
079-012-022-000	BP 4 LLC	3904 ELLENBORO AVE	Modesto CA 95357	\$26.00
079-012-023-000	SOLOMON JEAN M TR	3908 ELLENBORO AVE	Modesto CA 95357	\$26.00
079-012-024-000	THOMAS DOUGLAS E & GLENDA J	3912 ELLENBORO AVE	Modesto CA 95357	\$26.00
079-012-025-000	NAVARRETTE DANIEL & MONIQUE MARY	3916 ELLENBORO AVE	Modesto CA 95357	\$26.00
079-012-026-000	BARCELO PATRICIA	3920 ELLENBORO AVE	Modesto CA 95357	\$26.00
079-012-027-000	MATA JUAN W ETA L	3924 ELLENBORO AVE	Modesto CA 95357	\$26.00
079-012-028-000	SALINAS ELIZABETH & ALBERT	556 CODINGTON WAY	Modesto CA 95357	\$26.00
079-012-029-000	AUSTIN BEVERLY	552 CODINGTON WAY	Modesto CA 95357	\$26.00
079-012-030-000	VALLADOLID RAMIRO & DE VALLADOLID MA CRUZ COBARRUB	548 CODINGTON WAY	Modesto CA 95350	\$26.00
079-012-031-000	CHAIRES MICHAEL	544 CODINGTON WAY	Modesto CA 95357	\$26.00
079-012-032-000	TAH 2016-1 BORROWER LLC	540 CODINGTON WAY	Modesto CA 95357	\$26.00

Fee Parcel	Owner	Address	City State Zip	2022-23 Ast.
079-012-033-000	MC CLELLAN BRYCE	3925 GATESVILLE AVE	Modesto CA 95357	\$26.00
079-012-034-000	WILDEMAN GALEN J	3921 GATESVILLE AVE	Modesto CA 95354	\$26.00
079-012-035-000	RATANA KAM & RATANA TIMOTHY	3917 GATESVILLE AVE	Modesto CA 95357	\$26.00
079-012-036-000	SORIA RUBEN & SORIA GLORIA L	3913 GATESVILLE AVE	Modesto CA 95357	\$26.00
079-012-037-000	ORNELAS GABRIEL M & KATLYN T	3909 GATESVILLE AVE	Modesto CA 95357	\$26.00
079-012-038-000	TORRES VICTOR MANUEL & PANTOJA MARIA	3905 GATESVILLE AVE	Modesto CA 95357	\$26.00
079-012-039-000	OLMOS GUADALUPE	3901 GATESVILLE AVE	Modesto CA 95357	\$26.00
079-012-040-000	GRAVES LINDA M	3825 GATESVILLE AVE	Modesto CA 95357	\$26.00
079-012-041-000	TUERS TERRY B & TUERS LENORE L	3821 GATESVILLE AVE	Modesto CA 95357	\$26.00
079-012-042-000	KINNE DONNELLY & SUSAN N TRS	3817 GATESVILLE AVE	Modesto CA 95357	\$26.00
079-012-043-000	ORNELAS RUI & ELISANGELA	3813 GATESVILLE AVE	Modesto CA 95357	\$26.00
079-012-044-000	BUSH CHARLES F & BUSH DONNA L	3809 GATESVILLE AVE	Modesto CA 95357	\$26.00
079-012-045-000	PENA JOSEPH	3805 GATESVILLE AVE	Modesto CA 95354	\$26.00
079-012-046-000	ODISHO CATHERINE ET AL	3801 GATESVILLE AVE	Modesto CA 95357	\$26.00
079-012-047-000	SHEPHERD NORMAN E & LISA N	3725 GATESVILLE AVE	Modesto CA 95357	\$26.00
079-012-048-000	BARTHOLOMEW RUSSELL RAY	3721 GATESVILLE AVE	Modesto CA 95357	\$26.00
079-012-049-000	RUSSELL GARRICK	3717 GATESVILLE AVE	Modesto CA 95357	\$26.00
079-012-050-000	JENSEN STEVEN H & TONJA R	3713 GATESVILLE AVE	Modesto CA 95357	\$26.00
079-012-051-000	PATEL JAGUBHAI & PATEL GANGABEN	3709 GATESVILLE AVE	Modesto CA 95357	\$26.00
079-012-052-000	NELSON LESTER J & NELSON CRESENCIA	3705 GATESVILLE AVE	Modesto CA 95326	\$26.00
079-012-053-000	MUTOZA CRAIG J	3701 GATESVILLE AVE	Modesto CA 95357	\$26.00
079-013-001-000	HERNANDEZ ELI U ET AL	521 WADDELL WAY	Modesto CA 95357	\$26.00
079-013-002-000	VARGAS EDWARD J & RACHELLE DEE TRS	525 WADDELL WAY	Modesto CA 95357	\$26.00
079-013-003-000	ROCHA JAMES JOHN TRS ET AL	529 WADDELL WAY	Modesto CA 95354	\$26.00
079-013-004-000	VANDERHEIDEN ROBIN	533 WADDELL WAY	Modesto CA 95357	\$26.00
079-013-005-000	CORREA ARMANDO M JR & IRMA A	537 WADDELL WAY	Modesto CA 95356	\$26.00
079-013-006-000	RIVERA GRISELDA	3700 GATESVILLE AVE	Modesto CA 95357	\$26.00
079-013-007-000	BATEMAN WALTER	3704 GATESVILLE AVE	Modesto CA 95357	\$26.00
079-013-008-000	GOUVEIA JOHN E & TERRE L TRS	3708 GATESVILLE AVE	Modesto CA 95357	\$26.00
079-013-009-000	REYES RENE ET AL	3712 GATESVILLE AVE	Modesto CA 95357	\$26.00
079-013-010-000	LE CANH & TIEU MY HA	3716 GATESVILLE AVE	Modesto CA 95357	\$26.00
079-013-011-000	AYALA DIEGO ADRIAN ET AL	3720 GATESVILLE AVE	Modesto CA 95357	\$26.00
079-013-012-000	MARTINEZ MA DEL REFUGIO MORA	3724 GATESVILLE AVE	Modesto CA 95357	\$26.00
079-013-013-000	MARTINEZ PEDRO & IRMA	3800 GATESVILLE AVE	Modesto CA 95357	\$26.00
079-013-014-000	LONN JASON ASHLEY & ROCHELLE JOAN	3804 GATESVILLE AVE	Modesto CA 95357	\$26.00
079-013-015-000	GOLIB VILMA	3808 GATESVILLE AVE	Modesto CA 95357	\$26.00
079-013-016-000	PARKINSON MARK & DIANE	3812 GATESVILLE AVE	Modesto CA 95357	\$26.00
079-013-017-000	BROWN WILLIAM K & SHAMIRAN A	3816 GATESVILLE AVE	Modesto CA 95357	\$26.00
079-013-018-000	OXFORD DAVID C JR	3820 GATESVILLE AVE	Modesto CA 95357	\$26.00
079-013-019-000	TAPIA YER YANG ET AL	3824 GATESVILLE AVE	Modesto CA 95357	\$26.00
079-013-020-000	PHILLIPS AUDREY M	3900 GATESVILLE AVE	Modesto CA 95357	\$26.00
079-013-021-000	ELLIOTT CRAIG	3904 GATESVILLE AVE	Modesto CA 95357	\$26.00
079-013-022-000	WADE THAREN SCOTT II	3908 GATESVILLE AVE	Modesto CA 95357	\$26.00
079-013-023-000	GUARDADO ARIEL	3912 GATESVILLE AVE	Modesto CA 95357	\$26.00
079-013-024-000	JOLLIFF GARTH E & COEY-JOLLIFF KATHERINE A TRS	3916 GATESVILLE AVE	Modesto CA 95357	\$26.00
079-013-025-000	BAXTER RACHEL A	3920 GATESVILLE AVE	Modesto CA 95357	\$26.00
079-013-026-000	YIP AARON K & ELISE H	3924 GATESVILLE AVE	Modesto CA 95357	\$26.00
079-013-027-000	FARIAS ROBERTO F & ELIZABETH	536 CODINGTON WAY	Modesto CA 95357	\$26.00
079-013-028-000	MORENO EDUARDO MARTINEZ	532 CODINGTON WAY	Modesto CA 95350	\$26.00
079-013-029-000	ZAVALA CLEMENTE JR & ZAVALA IRMA	528 CODINGTON WAY	Modesto CA 95357	\$26.00
079-013-030-000	OCHOA SANJUANA	524 CODINGTON WAY	Modesto CA 95357	\$26.00
079-013-031-000	MIRANDA SERGIO & SANDRA C	520 CODINGTON WAY	Modesto CA 95357	\$26.00
079-013-032-000	DELACRUZ JENNIFER ROBYN	3925 LAURENBURG AVE	Modesto CA 95357	\$26.00
079-013-033-000	LE NHI UYEN	3921 LAURENBURG AVE	Modesto CA 95357	\$26.00
079-013-034-000	RODRIGUEZ MANUEL & MARIA E TRS	3917 LAURENBURG AVE	Modesto CA 95357	\$26.00

Fee Parcel	Owner	Address	City State Zip	2022-23 Ast.
079-013-035-000	GUZMAN JONATHAN	3913 LAURENBURG AVE	Modesto CA 95357	\$26.00
079-013-036-000	HENDERSON DAVID DUANE TR	3909 LAURENBURG AVE	Modesto CA 95357	\$26.00
079-013-037-000	SHAMESALDIN JOHNY K & SHAMESALDIN MUNA M	3905 LAURENBURG AVE	Modesto CA 95357	\$26.00
079-013-038-000	JOSEPHSON JOSEPH CLAYTON	3901 LAURENBURG AVE	Modesto CA 95357	\$26.00
079-013-039-000	MELENDEZ MARIA & WALKER DANIEL	3825 LAURENBURG AVE	Modesto CA 95357	\$26.00
079-013-040-000	TREVINO TONY & GERALDINE	3821 LAURENBURG AVE	Modesto CA 95357	\$26.00
079-013-041-000	HERNANDEZ SALVADOR M & HERNANDEZ NILDA M	3817 LAURENBURG AVE	Modesto CA 95357	\$26.00
079-013-042-000	PINAL RAMIRO ET AL	3813 LAURENBURG AVE	Modesto CA 95357	\$26.00
079-013-043-000	AQUINO J GABRIEL MENDOZA & MENDOZA NIEVES	3809 LAURENBURG AVE	Modesto CA 95357	\$26.00
079-013-044-000	ATHNEIL GEORGE K & ATHNEIL INAAM M	3805 LAURENBURG AVE	Modesto CA 95357	\$26.00
079-013-045-000	ALVARADO ALFONSO F	3801 LAURENBURG AVE	Modesto CA 95357	\$26.00
079-013-046-000	DUNN JAY ALAN TR	3725 LAURENBURG AVE	Modesto CA 95357	\$26.00
079-013-047-000	WATKINS WALLY T & LAUREN A	3721 LAURENBURG AVE	Modesto CA 95357	\$26.00
079-013-048-000	CHAND VIJAY ET AL	3717 LAURENBURG AVE	Modesto CA 95357	\$26.00
079-013-049-000	SABINIANO MARLON N ET AL	3713 LAURENBURG AVE	Modesto CA 95357	\$26.00
079-013-050-000	FREY SHERYL LYNN	3709 LAURENBURG AVE	Modesto CA 95357	\$26.00
079-013-051-000	GARDUNO IRINEO ET AL	3705 LAURENBURG AVE	Modesto CA 95357	\$26.00
079-013-052-000	LOPEZ MARIO & LUZ ELVIRA	3701 LAURENBURG AVE	Modesto CA 95357	\$26.00
079-014-001-000	GARCIA MIGUEL & GARCIA MARIA	449 WADDELL WAY	Modesto CA 95357	\$26.00
079-014-002-000	CABAGNOT DOLORES R & FLYNN G	501 WADDELL WAY	Modesto CA 95357	\$26.00
079-014-003-000	CRUZ ZANDHER LYN ET AL	505 WADDELL WAY	Modesto CA 95357	\$26.00
079-014-004-000	WILSON KELLIE MICHELLE & RYAN CHRISTOPHER	509 WADDELL WAY	Modesto CA 95357	\$26.00
079-014-005-000	NOUN SAMNANG	513 WADDELL WAY	Modesto CA 95357	\$26.00
079-014-006-000	SANCHEZ JOSE L & MADRIGAL ALICIA	517 WADDELL WAY	Modesto CA 95357	\$26.00
079-014-007-000	AUSTIN CATHERINE ANN TR	3700 LAURENBURG AVE	Modesto CA 95357	\$26.00
079-014-008-000	BECERRA-BARRERA GERMAN & BECERRA LUISA G	3704 LAURENBURG AVE	Modesto CA 95357	\$26.00
079-014-009-000	MILTON JEANNIE	3708 LAURENBURG AVE	Modesto CA 95357	\$26.00
079-014-010-000	CASTRO GREGORY ALAN & BARBARA LYNN TRS	3712 LAURENBURG AVE	Modesto CA 95357	\$26.00
079-014-011-000	DIXON GARY W TR	3716 LAURENBURG AVE	Modesto CA 95357	\$26.00
079-014-012-000	AMES ADELE TR	3720 LAURENBURG AVE	Modesto CA 95357	\$26.00
079-014-013-000	WARNER JO ANNE	3724 LAURENBURG AVE	Modesto CA 95357	\$26.00
079-014-014-000	GARCIA THERESA L	3800 LAURENBURG AVE	Modesto CA 95357	\$26.00
079-014-015-000	BERGHORST REBECCA L ET AL	3804 LAURENBURG AVE	Modesto CA 95354	\$26.00
079-014-016-000	GLOVER KEITH R & MENDOZA ARACELI CORRAL	3808 LAURENBURG AVE	Modesto CA 95357	\$26.00
079-014-017-000	DHIR ASHIKA ET AL	3812 LAURENBURG AVE	Modesto CA 95357	\$26.00
079-014-018-000	RIVERA DAYSI M	3816 LAURENBURG AVE	Modesto CA 95357	\$26.00
079-014-019-000	HUYNH NGOC DUNG THI ET AL	3820 LAURENBURG AVE	Modesto CA 95357	\$26.00
079-014-020-000	CASTANEDA JOSE J & MARGARET	3824 LAURENBURG AVE	Modesto CA 95357	\$26.00
079-014-021-000	GUZMAN MIRIAM & FLORES MARTIN	3900 LAURENBURG AVE	Modesto CA 95357	\$26.00
079-014-022-000	SEUGA HOWLAND P	3904 LAURENBURG AVE	Modesto CA 95357	\$26.00
079-014-023-000	TORRES JOSE DE JESUS & TORRES MARIA DOLORES	3908 LAURENBURG AVE	Modesto CA 95357	\$26.00
079-014-024-000	HO KAI-YIN SILAS & WANG LI	3912 LAURENBURG AVE	Modesto CA 95357	\$26.00
079-014-025-000	OAKLEY CHRISTOPHER PERRY & JACQUELINE	3916 LAURENBURG AVE	Modesto CA 95357	\$26.00
079-014-026-000	TRAN TRUYEN THANH & NGUYEN HUNG P	3920 LAURENBURG AVE	Modesto CA 95357	\$26.00
079-014-027-000	THOMPSON JAMIE ROBERTA	3924 LAURENBURG AVE	Modesto CA 95357	\$26.00
079-014-028-000	PIERCE FRANKLIN C & JODI L	516 CODINGTON WAY	Modesto CA 95357	\$26.00
079-014-029-000	PRASAD SURESH & PRASAD MUNI L	512 CODINGTON WAY	Modesto CA 95357	\$26.00
079-014-030-000	CASTELLANOS RIGOBERTO	508 CODINGTON WAY	Modesto CA 95357	\$26.00
079-014-031-000	NUON SOPHEAP & OUM SAVANARA	504 CODINGTON WAY	Modesto CA 95357	\$26.00
079-014-032-000	ROCHA ROBERTO T	500 CODINGTON WAY	Modesto CA 95357	\$26.00
079-014-033-000	ATWOOD BOBBY D	3925 WILKESBORO AVE	Modesto CA 95357	\$26.00
079-014-034-000	BEST JERROLIN E	3921 WILKESBORO AVE	Modesto CA 95357	\$26.00
079-014-035-000	GIOVANNONI CASEY L	3917 WILKESBORO AVE	Modesto CA 95357	\$26.00
079-014-036-000	MALIK ROBERT	3913 WILKESBORO AVE	Modesto CA 95357	\$26.00
079-014-037-000	VACA ANDRES SERVIN	3909 WILKESBORO AVE	Modesto CA 95357	\$26.00

Fee Parcel	Owner	Address	City State Zip	2022-23 Ast.
079-014-038-000	CHAU VINCENT	3905 WILKESBORO AVE	Modesto CA 95357	\$26.00
079-014-039-000	ROSAS CLAUDIA L & SAMUEL	3901 WILKESBORO AVE	Modesto CA 95357	\$26.00
079-014-040-000	YOUNG HOLLY M ET AL	3825 WILKESBORO AVE	Modesto CA 95357	\$26.00
079-014-041-000	FAMA JOSELITO & FAMA DOROTEA	3821 WILKESBORO AVE	Modesto CA 95357	\$26.00
079-014-042-000	CICERO THEODORE JR & CAROL	3817 WILKESBORO AVE	Modesto CA 95357	\$26.00
079-014-043-000	CABRERA THOMAS & CABRERA JANET S L	3813 WILKESBORO AVE	Modesto CA 95357	\$26.00
079-014-044-000	RIVERA LOUIS S & LOUELLA J TRS	3809 WILKESBORO AVE	Modesto CA 95357	\$26.00
079-014-045-000	JARAMILLO ARTURO	3805 WILKESBORO AVE	Modesto CA 95357	\$26.00
079-014-046-000	ROGERS MEGAN ET AL	3801 WILKESBORO AVE	Modesto CA 95357	\$26.00
079-014-047-000	BATTAN KRISHAN RAAJ	3725 WILKESBORO AVE	Modesto CA 95357	\$26.00
079-014-048-000	BAINS SARVSATINDER & BELBINDER K	3721 WILKESBORO AVE	Modesto CA 95357	\$26.00
079-014-049-000	BOUCHER GARY C & BOUCHER DENISE K	3717 WILKESBORO AVE	Modesto CA 95357	\$26.00
079-014-050-000	POWLEY ANAMARIA	3713 WILKESBORO AVE	Modesto CA 95357	\$26.00
079-014-051-000	PRASAD GEORGE & PRASAD LALITA	3709 WILKESBORO AVE	Modesto CA 95357	\$26.00
079-014-052-000	WARD JODY LEE & CHEN QIAO	3705 WILKESBORO AVE	Modesto CA 95357	\$26.00
079-014-053-000	BENJAMIN LINDA & EUGENE	3701 WILKESBORO AVE	Modesto CA 95357	\$26.00
079-016-001-000	COLLINS TOMMY S	440 WADDELL WAY	Modesto CA 95357	\$26.00
079-016-002-000	BIRD BYRON M	3704 WILKESBORO AVE	Modesto CA 95357	\$26.00
079-016-003-000	BARNES REECE WAYNE	3708 WILKESBORO AVE	Modesto CA 95357	\$26.00
079-016-004-000	BIERMAN ALLEN	3712 WILKESBORO AVE	Modesto CA 95357	\$26.00
079-016-005-000	PRASAD VIJAY	3716 WILKESBORO AVE	Modesto CA 95357	\$26.00
079-016-006-000	GONZALEZ JOSE	3720 WILKESBORO AVE	Modesto CA 95357	\$26.00
079-016-007-000	GONZALEZ JAIME J & SAUCEDA PERLA R	3800 WILKESBORO AVE	Modesto CA 95357	\$26.00
079-016-008-000	KOHN RONALD & JUANITA I	3804 WILKESBORO AVE	Modesto CA 95357	\$26.00
079-016-009-000	CANCINO DANIEL DISU & FEDERICA BERNARTE TRS	3808 WILKESBORO AVE	Modesto CA 95354	\$26.00
079-016-010-000	ROSALES JOSE L & FRANCO MARIA T	3812 WILKESBORO AVE	Modesto CA 95357	\$26.00
079-016-011-000	STINHILVER WILLARD & STINHILVER MARLENE	3816 WILKESBORO AVE	Modesto CA 95357	\$26.00
079-016-012-000	CAMERON CHERYLE A	3820 WILKESBORO AVE	Modesto CA 95357	\$26.00
079-016-013-000	TORRES LUIS BENITEZ	3824 WILKESBORO AVE	Modesto CA 95357	\$26.00
079-016-014-000	LUZUNARIS MIGUEL ORLANDO	3900 WILKESBORO AVE	Modesto CA 95357	\$26.00
079-016-015-000	OU KANG YE & LIANG LIZHEN	3904 WILKESBORO AVE	Modesto CA 95354	\$26.00
079-016-016-000	VILLASENOR RICARDO & ANA L RAMINEZ DE	3908 WILKESBORO AVE	Modesto CA 95357	\$26.00
079-016-017-000	MANSOUR ALEN M	3912 WILKESBORO AVE	Modesto CA 95357	\$26.00
079-016-018-000	EASTHAM GLENDA S	3916 WILKESBORO AVE	Modesto CA 95357	\$26.00
079-016-019-000	GUZMAN HORACIO GARNICA & ALICIA BARBOSA	3920 WILKESBORO AVE	Modesto CA 95357	\$26.00
079-016-020-000	SOLORIO SAMMY	3924 WILKESBORO AVE	Modesto CA 95357	\$26.00
079-016-021-000	SINGH AJESH & AACHAL	440 CODINGTON WAY	Modesto CA 95357	\$26.00
079-016-022-000	JOHNSON ALOMA J & VELTON JR	436 CODINGTON WAY	Modesto CA 95357	\$26.00

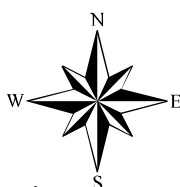
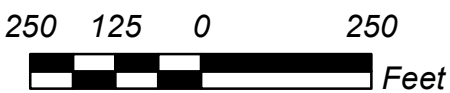
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# Assessment District Diagram

## Landscape Maintenance Assessment District No. 1

### (Dry Creek Meadows Subdivisions No. 1 - 6)



Date: 1/6/2022

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2022-183**

**RESOLUTION ACCEPTING THE FISCAL YEAR 2022-23 ENGINEER'S ANNUAL REPORT FOR LANDSCAPE MAINTENANCE DISTRICT NO. 2 FOR DRY CREEK MEADOWS SUBDIVISIONS NOS. 7-10, CREEKWOOD MEADOWS SUBDIVISION, AND YOSEMITE MEADOWS SUBDIVISIONS UNITS 1 AND 2; NOTICE OF INTENTION TO LEVY AND COLLECT ASSESSMENTS FOR LANDSCAPE MAINTENANCE ASSESSMENT DISTRICT NO. 2 FOR DRY CREEK SUBDIVISIONS NOS. 7-10, CREEKWOOD MEADOWS SUBDIVISION, AND YOSEMITE MEADOWS UNITS 1 AND 2; AND SETTING A PUBLIC HEARING ON JUNE 28, 2022 TO CONSIDER THE FISCAL YEAR 2022-23 LEVY AND COLLECTION OF ASSESSMENTS WITHIN LANDSCAPE MAINTENANCE ASSESSMENT DISTRICT NO. 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 Maintenance Assessment District No. 2 for the purpose of administering the maintenance of landscaping in the public right of way within the street medians and adjacent to the access control walls in Dry Creek Meadows Subdivisions Nos. 7-10, Creekwood Meadows Subdivision and Yosemite Meadows Subdivision Units Nos. 1 and 2, and

WHEREAS, said assessment district was formed in accordance with the Landscaping and Lighting Act of 1972, (California Streets and Highways Code Sections 22500 through 22679), and

WHEREAS, said assessment district was formed with annual inflator based on the Building Cost Index (BCI), and

WHEREAS, Section 22623 of the California Streets and Highways Code requires the Community Development Manager, the person designated by the 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, California Streets and Highways Code Section 22623 requires the Council to adopt a resolution of intention which shall include the following:

- a. Declaration of intention of the 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 California Streets and Highways Code Section 22625, and the place for hearing by the Council on the levy of the proposed assessment.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby accepts the Fiscal Year 2022-2023 Engineer's Annual Report for Landscape Maintenance Assessment District No. 2 for Dry Creek Meadows subdivisions Nos. 7-10, Creekwood Meadows subdivision and Yosemite subdivision.

BE IT FURTHER RESOLVED that the Council hereby finds as follows:

1. The City Council intends to levy and collect assessments within Landscape Maintenance Assessment District No. 2 during the fiscal year 2022-2023. The amount of the proposed assessment for 2022-2023 will be equal to the assessment for fiscal year 2021-2022 increased by the annual percentage change in the Building Cost Index (BCI).
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 northeast corner of

Yosemite Boulevard and North McClure Road. District 2 is bounded by Yosemite Boulevard on the south, North McClure Road on the west, Yosemite Meadows Drive on the east, and Mechalys Way on the north.

4. Said annual report filed with the City Clerk and approved by the Council 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 28<sup>th</sup> day of June, 2022, 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 10<sup>th</sup> 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 12th day of April, 2022, by Councilmember Kenoyer, who moved its adoption, which motion being duly seconded by Councilmember Wright, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Escutia-Braaton, Kenoyer, Madrigal, Ricci, Wright, Mayor Zwahlen

NOES: Councilmembers: None

ABSENT: Councilmembers: Zoslocki

ATTEST:   
DANA SANCHEZ, Interim City Clerk

(SEAL)

APPROVED AS TO FORM:

BY:   
JOSÉ M. SANCHEZ, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2022-184**

**RESOLUTION APPROVING THE FISCAL YEAR 2022-23 ENGINEER'S  
ANNUAL REPORT FOR THE SHACKELFORD LANDSCAPE AND LIGHTING  
DISTRICT AND SETTING A PUBLIC HEARING FOR THE LEVY AND  
COLLECTION OF ASSESSMENTS WITHIN THE SHACKELFORD  
LANDSCAPE AND LIGHTING DISTRICT**

WHEREAS, on June 29, 1999, the County of Stanislaus ("County") formed the Shackelford Landscape and Lighting District ("Shackelford LLD") for the purpose of administering the maintenance of seventy-seven (77) 200-watt high-pressure sodium streetlights, and

WHEREAS, the Shackelford LLD was formed in accordance with the Landscaping and Lighting Act of 1972 (Streets and Highways Code Sections 22500 through 22679), and

WHEREAS, the Shackelford LLD is comprised of approximately 153 acres, includes 494 lots with both residential and commercial development, and is bounded by Crows Landing on the west, E. Hatch Road on the south, Union Pacific Railroad on the east, and State Route 99 on the north, and

WHEREAS, on February 22, 2012, the Stanislaus County Local Agency Formation Commission ("LAFCO") approved the annexation of the Shackelford Area to the City of Modesto ("City"), and

WHEREAS, on April 24, 2012, the City Council approved the Shackelford Landscape and Lighting District Transfer Agreement between the County and City, and

WHEREAS, the City assumed full responsibility and administration of the Shackelford LLD on July 1, 2012, and

WHEREAS, Section 22623 of the California Streets and Highways Code requires the City Engineer, the person designated by this Council as Engineer of Work for the Shackelford LLD, to prepare and file an annual report, and

WHEREAS, the Engineer of Work has prepared and filed said annual report with the City Clerk, and

WHEREAS, the Fiscal Year 2022-23 Assessment will be increasing from the prior fiscal year, and

WHEREAS, California Streets and Highways Code Section 22623 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 Shackelford LLD 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 Shackelford LLD.
- 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 Shackelford LLD and any zones therein, and the proposed assessments upon assessable lots and parcels of land within the Shackelford LLD.

- e. Notice of the time, as fixed by the California 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 it hereby accepts the Fiscal Year 2022-23 Engineer's Annual Report for the Shackelford Landscape and Lighting District.

BE IT FURTHER RESOLVED that the City Council hereby finds the following:

1. The City Council intends to levy and collect assessments within the Shackelford LLD during the fiscal year 2022-23.
2. The proposed 2022-23 annual assessment for residential parcels is increasing from \$59.80 to \$61.25 per parcel.
3. There are no proposed new improvements or any substantial changes in the existing improvements in the Shackelford LLD and the existing improvements to be made in the Shackelford LLD are generally described as follows:

The City shall provide maintenance, operation and servicing, in perpetuity, of streetlights and all improvements required for such maintenance including, but not limited to:

- a. Payment to local utility company for monthly power costs of energizing street lights in the Shackelford LLD.
- b. Payment to local utility company for maintenance of street lights in the Shackelford LLD that the utility company

owns (usually those lights that are mounted on wooden poles).

c. Maintenance provided by the City of Modesto for street lights in the Shackelford LLD that are owned by the City of Modesto (usually those lights that are mounted on steel poles).

4. The Shackelford LLD is located in the County of Stanislaus, within the City Limits of the City of Modesto and is more specifically located North of Hatch Road, South of State Highway 99, and East of Crows Landing Road.
5. 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 Shackelford LLD and any zones therein, and the proposed assessments upon assessable lots and parcels of land within the Shackelford LLD.
6. On Tuesday, the 28<sup>th</sup> day of June, 2022, at the hour of 5:30 p.m., the City Council will conduct a public hearing on the questions 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 10<sup>th</sup> Street, Modesto, California.
7. The City Clerk is authorized and directed to give the notice of hearing required by the Landscape and Lighting Act of 1972.

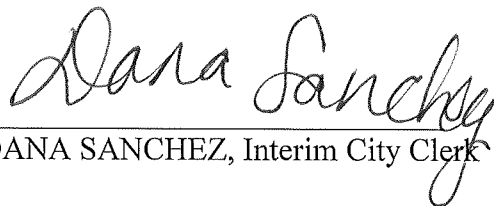
8. The levy and collection of assessments as set forth in this resolution are exempt from the procedural and substantive requirements of Proposition 218 pursuant to Article XIII, Section 5(a) of the California Constitution.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 12th day of April, 2022, by Councilmember Kenoyer, who moved its adoption, which motion being duly seconded by Councilmember Wright, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Escutia-Braaton, Kenoyer, Madrigal, Ricci, Wright, Mayor Zwahlen

NOES: Councilmembers: None

ABSENT: Councilmembers: Zoslocki

ATTEST:   
DANA SANCHEZ, Interim City Clerk

(SEAL)

APPROVED AS TO FORM:

BY:   
JOSE M. SANCHEZ, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2022-185**

**RESOLUTION APPROVING A GRANT AGREEMENT WITH CALIFORNIA DEPARTMENT OF FORESTRY AND FIRE PROTECTION (CALFIRE) URBAN AND COMMUNITY FORESTRY CALIORNIA CLIMATE INVESTMENTS GRANT PROGRAM IN THE AMOUNT OF \$557,420 FOR A FOUR-YEAR PERIOD FOR COMPLETION OF THE URBAN FOREST MANAGEMENT PLAN, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE AGREEMENT AND ALL GRANT RELATED DOCUMENTS**

WHEREAS, the City of Modesto Forestry Division's primary purpose is to maintain the City's extensive urban forest of over 100,000 community trees along streets, in parks, at City facilities, and in right-of-way areas, and

WHEREAS, a secondary purpose of the Division is to provide guidance and assistance to Council in managing, enhancing, and growing Modesto's community tree resources, including development of objectives for long-range planning to promote sustainability, species diversity, and increased canopy cover, and

WHEREAS, the Division's Street Tree Plan was developed thirty years ago and requires updating in order to remain in compliance with accepted arboricultural industry standards, and

WHEREAS, the City does not have a current Urban Forest Management Plan (UFMP) that would fulfill the Division's secondary purpose, and

WHEREAS, staff applied for and was awarded a grant in the amount of \$557,420 in funding from the Department of Forestry and Fire Protection CAL FIRE, and

WHEREAS, the grant will also include \$186,034 in City in-kind matching costs for staff time assisting the selected consultant firm with grant-related activities, the purchase of trees and planting materials, vehicle and equipment costs, and public outreach workshops.

NOW, THEREFORE, BE IT RESOLVED, by the Council of the City of Modesto that it hereby approves a grant agreement with the California Department of Forestry and Fire Protection (CAL FIRE) Urban and Community Forestry California Climate Investments Grant Program in the amount of \$557,420 for a four-year period for the completion of the Urban Forest Management Plan.

BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to execute the grant agreement and all related documents, in a form approved by the City Attorney.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 12th day of April, 2022, by Councilmember Kenoyer, who moved its adoption, which motion being duly seconded by Councilmember Wright, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Escutia-Braaton, Kenoyer, Madrigal, Ricci, Wright, Mayor Zwahlen

NOES: Councilmembers: None

ABSENT: Councilmembers: Zoslocki

ATTEST:   
DANA SANCHEZ, Interim City Clerk

(SEAL)

APPROVED AS TO FORM:

BY:   
JOSE M. SANCHEZ, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2022-186**

**RESOLUTION APPROVING PLANS AND SPECIFICATIONS FOR THE REBID PLANT STRUCTURAL IMPROVEMENTS PROJECT, ACCEPTING THE BID, AND APPROVING A CONSTRUCTION CONTRACT WITH CALIBER CONTRACTING SERVICES INC, OF FRESNO, CA, IN THE AMOUNT OF \$2,516,700 PLUS \$302,004 FOR CONTINGENCY (IF NEEDED) FOR A TOTAL AMOUNT NOT TO EXCEED \$2,818,704 AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE AGREEMENT**

WHEREAS, the Rebid Plant Structural Improvements Project involves facility improvements primarily at the Sutter Wastewater Treatment Plant, and

WHEREAS, due to the age of some of the existing buildings, the roofing and siding has deteriorated and are leaking and needed to be replaced, and

WHEREAS, the exterior foam insulation of the existing digesters has been deteriorating and need to be recoated and isolated, and

WHEREAS, a new concrete vault and a new concrete dry clean blast enclosure will be constructed as well as repainting of the existing Thousand Oaks Lift Station, and

WHEREAS, specifications have been prepared for the Rebid Plant Structural Improvements Project, and

WHEREAS, the Project was re-advertised for bids on December 21, 2021, and

WHEREAS, on February 22, 2022, Bids were publicly opened, pursuant to City Charter Section 1307, three bids were received and Caliber Contracting Services Inc, of Fresno, CA, was the responsible bidder with the lowest responsive bid, and

WHEREAS, MMC 8-3.203 states that all purchases, in excess of fifty thousand dollars (\$50,000), or when directed by the City Manager for any purchase of fifty thousand dollars (\$50,000) or less, shall follow formal bid procedures, and

WHEREAS, and the award of bid for the Rebid Plant Structural Improvements Project conforms to the Modesto Municipal code based on providing the overall lowest cost, while providing improved service, and

WHEREAS, the Director of Utilities has recommended that the bid of \$2,516,700 received from Caliber Contracting Services Inc, of Fresno, CA, be accepted as the lowest responsible and responsive bid and the contract be awarded to Caliber Contracting Services Inc, of Fresno, CA.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the plans and specifications for the Rebid Plant Structural Improvements Project and accepts the bid of \$2,516,700 plus \$302,004 for contingency (if needed) for a total amount not to exceed \$2,818,704 and Caliber Contracting Services Inc, of Fresno, CA, the contract for the Rebid Plant Structural Improvements Project.

BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to execute the contract, in a form approved by the City Attorney.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 12th day of April, 2022, by Councilmember Kenoyer, who moved its adoption, which motion being duly seconded by Councilmember Wright, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Escutia-Braaton, Kenoyer, Madrigal, Ricci, Wright, Mayor Zwahlen

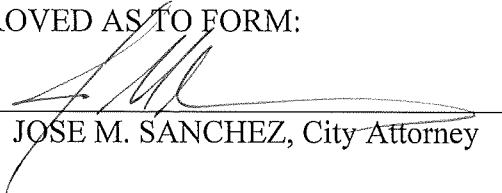
NOES: Councilmembers: None

ABSENT: Councilmembers: Zoslocki

ATTEST:   
DANA SANCHEZ, Interim City Clerk

(SEAL)

APPROVED AS TO FORM:

BY:   
JOSE M. SANCHEZ, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2022-187**

**RESOLUTION AUTHORIZING AN INCREASE IN THE DIRECTOR'S  
AUTHORITY TO ISSUE CHANGE ORDERS FOR THE REBID PLANT  
STRUCTURAL IMPROVEMENTS PROJECT FROM 8% (\$201,336) TO 12%  
(\$302,004) OF THE CONSTRUCTION CONTRACT PRICE OF \$2,516,700 WITH  
CALIBER CONTRACTING SERVICES INC, OF FRESNO, CA**

WHEREAS, the City's "Change Order Approval Policy", enacted by Council Resolution No. 94-443 on July 19, 1994, and updated by Resolution No. 2019-326 on July 9, 2019, established a contract change order budget of 8% for projects between \$1 Million and \$10 Million, and

WHEREAS, given the nature of this project dealing with existing construction, as well as having deep shoring and excavation, additional work may be needed to address unexpected conditions that require changes in the project scope that may exceed the Director's Authority of 8% (\$201,336) of the contract amount of \$2,516,700, and

WHEREAS, staff is requesting authorization to increase the contract change order budget to 12% (\$302,004) due to the nature of the project and the unknown challenges.

NOW, THEREFORE BE IT RESOLVED by the Council of the City of Modesto that it hereby authorizes the Director of Utilities to issue change orders for Rebid Plant Structural Improvements Project from 8% (\$201,336) to 12% (\$302,004) of the construction contract price of \$2,516,700 with Caliber Contracting Services Inc, of Fresno, CA.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 12th day of April, 2022, by Councilmember Kenoyer, who moved its adoption, which motion being duly seconded by Councilmember Wright, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Escutia-Braaton, Kenoyer, Madrigal, Ricci, Wright, Mayor Zwahlen

NOES: Councilmembers: None

ABSENT: Councilmembers: Zoslocki

ATTEST:   
DANA SANCHEZ, Interim City Clerk

(SEAL)

APPROVED AS TO FORM:

BY:   
JOSE M. SANCHEZ, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2022-188**

**RESOLUTION APPROVING AN AGREEMENT WITH CAROLLO ENGINEERS INC., OF WALNUT CREEK, CA, FOR ENGINEERING SUPPORT DURING CONSTRUCTION FOR THE REBID PLANT STRUCTURAL IMPROVEMENTS PROJECT, IN AN AMOUNT NOT TO EXCEED \$100,000 FOR THE IDENTIFIED SCOPE OF SERVICES, PLUS \$10,000 FOR ADDITIONAL SERVICES (IF NEEDED) FOR A TOTAL AMOUNT NOT TO EXCEED \$110,000 AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE TO EXECUTE THE AGREEMENT**

WHEREAS, the Rebid Plant Structural Improvements Project involves facility improvements primarily at the Sutter Wastewater Treatment Plant, and

WHEREAS, part of this project is constructing a new concrete vault around the existing farm valves and soil stabilization under the existing Electrical Building, and

WHEREAS, the Construction Documents for this portion of the project, have been prepared by Carollo Engineers Inc., and

WHEREAS, considering the size and complexity of the project, and that Carollo is the Engineer-of-Record for part of the project, Engineering Services During Construction will be needed from Carollo to ensure construction of the facilities meets the original design described in the plans and specifications, and

WHEREAS, Administrative Directive 3.1 allows for an accelerated selection process, if in the best interest of the City, where a consultant may be secured for specific projects to provide professional services, and

WHEREAS, in accordance with Modesto Municipal Code 8-3.204 Exceptions to Formal Bidding Requirements, this agreement is for professional services and, therefore, exempt from the bid requirement.

NOW, THEREFORE BE IT RESOLVED by the Council of the City of Modesto that it hereby approves an agreement with Carollo Engineers, Inc., for Engineering Services During Construction for the Rebid Plant Structural Improvements Project in an amount not to exceed \$100,000, for the identified scope of services, plus \$10,000 for additional services, if needed, for a maximum total amount of \$110,000.

BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to execute the agreement, in a form approved by the City Attorney.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 12th day of April, 2022, by Councilmember Kenoyer, who moved its adoption, which motion being duly seconded by Councilmember Wright, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Escutia-Braaton, Kenoyer, Madrigal, Ricci, Wright, Mayor Zwahlen

NOES: Councilmembers: None

ABSENT: Councilmembers: Zoslocki

ATTEST:   
DANA SANCHEZ, Interim City Clerk

(SEAL)

APPROVED AS TO FORM:

BY:   
JOSE M. SANCHEZ, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2022-189**

**RESOLUTION AMENDING THE FISCAL YEAR 2021-22 CAPITAL IMPROVEMENT PROGRAM BUDGET IN THE AMOUNT OF \$2,026,195 TO BE TRANSFERRED INTO THE PROJECT FROM WASTEWATER RESERVES TO FULLY FUND THE CONSTRUCTION, CONTINGENCY, CONSTRUCTION ADMINISTRATION AND DESIGN SUPPORT DURING CONSTRUCTION FOR THE REBID PLANT STRUCTURAL IMPROVEMENTS PROJECT, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO IMPLEMENT THE PROVISIONS OF THIS RESOLUTION**

WHEREAS, on February 22, 2022, bids were publicly opened, pursuant to City Charter Section 1307, three bids were received and due to the large size and complexity of the project, and

WHEREAS, certain budgetary transactions are necessary in the amount of \$2,026,195, in order to fully fund the construction, contingency, construction administration and design support during construction for the Rebid Plant Structural Improvements Project, and

WHEREAS, the Fiscal Year 2021-2022 Capital Improvement Program Budget must be amended.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the amendment of the Fiscal Year 2021-2022 Capital Improvement Program Budget in the amount of \$2,026,195 to be transferred into the project from Wastewater Reserves.

BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to implement the provisions of this resolution.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 12th day of April, 2022, by Councilmember Kenoyer, who moved its adoption, which motion being duly seconded by Councilmember Wright, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Escutia-Braaton, Kenoyer, Madrigal, Ricci, Wright, Mayor Zwahlen

NOES: Councilmembers: None

ABSENT: Councilmembers: Zoslocki

ATTEST:   
DANA SANCHEZ, Interim City Clerk

(SEAL)

APPROVED AS TO FORM:

BY:   
JOSE M. SANCHEZ, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2022-190**

**RESOLUTION APPROVING A SECOND AMENDMENT TO THE AGREEMENT WITH NV5, OF MANTECA, CA, FOR CONSTRUCTION MANAGEMENT AND INSPECTION SERVICES FOR THE DEL RIO TANK NO. 14, WELL NO. 68, AND PUMP STATION PROJECT IN AN AMOUNT NOT TO EXCEED \$35,328, FOR AN AMENDED TOTAL NOT TO EXCEED \$1,235,020, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE AMENDMENT**

WHEREAS, this project will construct a 0.25-million gallon steel water tank, a 1,000 gallon-per-minute (gpm) well production pump, a 2.45 million gallon-per-day booster pump station, a 1.4 acre-foot retention basin, and a 16-inch transmission main installation from the intersection of St. John Road and Country Club Drive, south to Ladd Road, and

WHEREAS, on October 2, 2018, by Resolution No. 2018-432, Council awarded the construction contract to Mountain Cascade Inc. (MCI) of Livermore, CA., in the amount of \$7,510,835 for the Del Rio Tank No.14, Well No. 68 & Pump Station Project, and

WHEREAS, in accordance with Modesto Municipal Code 8-3.204(a), “Exceptions to Formal Bidding Requirements,” this agreement for professional services is exempt from the bidding requirements of Modesto Municipal Code 8-3.203, and

WHEREAS, the project was scheduled to be complete by December 31, 2020; Unfortunately, the project experienced delays due to unanticipated circumstances related to the well disinfection and bacteria testing, as well as pump motor and flow meter issues, and

WHEREAS, these delays resulted in an extended construction schedule and extended construction management services and additional inspections, and

WHEREAS, Construction management services and additional inspections are no longer needed, as the project is being prepared for close-out and Council acceptance, and

WHEREAS, City staff recommends approving a second amendment to the agreement with NV5, to provide construction management, inspection and materials testing services.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves an Amendment to the agreement with NV5 for construction management and inspection services for Del Rio Tank No.14, Well No. 68 & Pump Station Project, in the amount of not to exceed \$35,328, for an amended total not to exceed \$1,235,020.

BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to execute the amendment, in a form approved by the City Attorney.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 12th day of April, 2022, by Councilmember Kenoyer, who moved its adoption, which motion being duly seconded by Councilmember Escutia-Braaton, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Escutia-Braaton, Kenoyer, Madrigal, Ricci, Wright, Mayor Zwahlen

NOES: Councilmembers: None

ABSENT: Councilmembers: Zoslocki

ATTEST:   
DANA SANCHEZ, Interim City Clerk

(SEAL)

APPROVED AS TO FORM:

BY:   
JOSE M. SANCHEZ, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2022-191**

**RESOLUTION APPROVING A PREQUALIFIED LOCAL CONSULTANT LIST FOR CIVIL ENGINEERING SERVICES, FOR VARIOUS CAPITAL IMPROVEMENT PROGRAM PROJECTS FOR A PERIOD OF ONE YEAR, WITH THE POSSIBILITY OF TWO ADDITIONAL ONE-YEAR EXTENSIONS AT THE WRITTEN APPROVAL OF THE UTILITIES DEPARTMENT DIRECTOR**

WHEREAS, there are a number of Capital Improvement Program projects that may require outside consultant services for efficient project delivery, and

WHEREAS, retaining a prequalified, list of consultants allows the Utilities Department to have accelerated access to civil engineering services, when needed, and

WHEREAS, this will eliminate the need to send out repetitive Requests for Qualifications for projects of similar scope and/or type, saving staff time and project costs, and

WHEREAS, in accordance with Administrative Directive 3.1, Selection Procedures for Professional Consultants Who Provide Architectural & Engineering Services for Capital Projects, which is in compliance with State of California Government Code, Sections 4526-4529, staff solicited and formally advertised a Request for Qualifications through Planet Bids for civil design and drafting services, and

WHEREAS, staff received seven Statements of Qualifications for civil engineering services, and

WHEREAS, after careful review of the Statements of Qualifications by Utilities Department staff, the following four firms were selected for the prequalified list:

- Siegfried Engineering
- North Star Engineering Group

- O'Dell Engineering
- Blackwater Consulting Engineers

WHEREAS, this prequalified consultant list will be active for one year from the date of Council approval, at which time the City may extend the list for two additional one-year extensions at the written approval of the Utilities Department Director, and

WHEREAS, in the event the firms listed on the prequalified list are deemed to lack experience or expertise for specific projects, the City retains the right to recruit consultants for individual projects and not be restricted to the approved list, and

WHEREAS, a formal process will be conducted should this situation occur.

NOW, THEREFORE BE IT RESOLVED by the Council of the City of Modesto that it hereby approves a prequalified local consultant list for civil engineering services, consisting of the following firms:

- Siegfried Engineering
- North Star Engineering Group
- O'Dell Engineering
- Blackwater Consulting Engineers

for various Capital Improvement Program projects for a period of one year, with the possibility of two additional one-year extensions at the written approval of the Utilities Department Director.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 12th day of April, 2022, by Councilmember Escutia-Bratton, who moved its adoption, which motion being duly seconded by Councilmember Ricci, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Escutia-Braaton, Kenoyer, Madrigal, Ricci,  
Mayor Zwahlen

NOES: Councilmembers: None

RECUSE: Councilmembers: Wright

ABSENT: Councilmembers: Zoslocki

ATTEST:   
DANA SANCHEZ, Interim City Clerk

(SEAL)

APPROVED AS TO FORM:

BY:   
JOSE M. SANCHEZ, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2022-192**

**RESOLUTION ACCEPTING THE CITY OF MODESTO'S PROJECT  
HOMEKEY 2.0 GRANT AWARD OF \$3,973,353 FOR THE PROJECT  
LOCATED AT 1208 9TH STREET, AUTHORIZING THE CITY MANAGER, OR  
HIS DESIGNEE, TO EXECUTE THE RELATED AGREEMENTS**

WHEREAS, in July of 2020, the State of California launched a \$750 million program called "Project Homekey", with the aim of helping local communities rapidly acquire hotels, motels, commercial buildings, and other creative properties in order to rapidly house people experiencing homelessness during the COVID-19 pandemic, and

WHEREAS, by December 29, 2020, the program had resulted in the acquisition of 94 projects statewide, representing 6,029 units of permanent housing for individuals experiencing homelessness, and

WHEREAS, given the success of "Homekey 1.0", in January of 2021, Governor Newsom's Fiscal Year 2021-22 budget included another \$1.4 Billion dollar allocation for "Project Homekey 2.0" (Homekey 2.0) and a Notice of Funding Availability was released September 9, 2021, applications became available late September, and applications are being accepted on a rolling basis until funds are exhausted, and

WHEREAS, the mission of HomeKey 2.0 is to prevent homelessness and to make homelessness rare, brief, by rapidly re-housing individuals through the provision of coordinated, compassionate, and high-quality services, and

WHEREAS, during the 2021, strategic planning process conducted by the Stanislaus Community System of Care, the number one goal identified was to "Increase the availability of permanent housing for people experiencing homelessness," and

WHEREAS, under Homekey, local entities in partnership with a co-applicant (City of Modesto) will acquire and rehabilitate a variety of housing types, including but not limited to hotels, motels, hostels, single-family homes, multifamily apartments, adult residential facilities, manufactured housing, and/or to convert commercial properties and other existing buildings to Permanent or Interim Housing for the Target Population, and

WHEREAS, the City under its consultation process has been approached by developer/operators interested in identifying properties that they can use to further serve their clients and one partnership that developed during this process is with Center for Human Services – Youth Housing, and

WHEREAS, Youth Housing projects have a special distinction for both operating and capital improvements as part of the HomeKey 2.0 scoring criteria and CHS identified a commercial building located at 1208 9th Street to convert into permanent supportive housing in partnership for youth, and

WHEREAS, this project will be designed to serve transitional aged youth ages 18-25 and will be used for the acquisition and commercial conversion of a building that will result in 9 studios and 5 one-bedroom apartments, and

WHEREAS, in conformance with Administrative Directive 7.2 Grant Management, Council approved this grant application to Project Homekey on January 11, 2022 through Resolution 2022-028, and

WHEREAS, city staff submitted the application to the State of California on January 31, 2022, and March 30, 2022 the City was notified of a project award of \$3,973,353 of Project Homekey Funds, and

WHEREAS, the project will serve youth who are homeless or at risk of homelessness who are under 30% of the area median income, and

WHEREAS, for a household of one, the maximum income an household can make is \$15,000 per year, and

WHEREAS, rent will be set at an affordable rate, where the rent will not exceed \$375 per month for the studios, and \$401 per month for the one-bedroom apartments, and

WHEREAS, the project will remain affordable for this population for a minimum of fifty-five years, and

WHEREAS, the City and CHS will need to expend capital funds from the Project Homekey award within eight months of the date of award, and

WHEREAS, the project will need to be fully completed and occupied within twelve months.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby accepting the City of Modesto's Project Homekey 2.0 Grant Award of \$3,973,353 for the project located at 1208 9th Street.

BE IT FURTHER RESOLVED that the City Manager, or his designee, to execute the related agreements, in a form approved by the City Attorney, with the State of California and to take such other actions as are necessary to accept the grant.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 12th day of April, 2022, by Councilmember Ricci, who moved its adoption, which motion being duly seconded by Councilmember Madrigal, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Escutia-Braaton, Kenoyer, Madrigal, Ricci, Wright, Mayor Zwahlen

NOES: Councilmembers: None

ABSENT: Councilmembers: Zoslocki

ATTEST:   
DANA SANCHEZ, Interim City Clerk

(SEAL)

APPROVED AS TO FORM:

BY:   
JOSE M. SANCHEZ, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2022-193**

**RESOLUTION APPROVING AN AMENDMENT TO THE MODESTO URBAN  
AREA GENERAL PLAN TO CHANGE THE LAND USE DESIGNATION OF 67  
ACRES FROM BUSINESS PARK (BP) TO MIXED USE (MU)**

WHEREAS, on March 5, 2019, the City Council of the City of Modesto certified the Final Master Environmental Impact Report (“Master EIR”) (SCH No. 2014042081) for the Modesto Urban Area General Plan; 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, 2003-101, 2003-122, 2004-233, 2005-70, 2007-066, 2007-599, 2008-142, 2008-583, 2009-419, 2011-253, 2011-254, 2011-435, 2012-430, 2014-17, 2014-422, 2015-262, 2016-34, 2017-21, 2019-109 and 2022-100, 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; and

WHEREAS, the Grupe-Huber Company has applied for an amendment to the General Plan to change the land use designation of 67 acres from Business Park (BP) to Mixed Use (MU), property located north of Pelandale Avenue and east of Dale Road; and

WHEREAS, the Community & Economic Development Department has analyzed the proposed amendment and concluded that the amendment to the Land Use Diagram

would allow for the development of new medium-high density residential uses consistent with the Mixed Use land use designation; and

WHEREAS, the City of Modesto prepared an Initial Study (Environmental Assessment C&ED/EA 2022-06) that evaluated the environmental impacts of the project, and based on the Initial Study conclusion that there would not be any significant impacts on the environment, a Negative Declaration has been prepared for the project; and

WHEREAS, on March 7, 2022, the Planning Commission held a duly noticed public hearing in the Tenth Street Place Chambers located at 1010 Tenth Street, Modesto, California, relating to this proposed amendment to the Modesto Urban Area General Plan to change the land use designation of 67 acres from Business Park (BP) to Mixed Use (MU), property located north of Pelandale Avenue and east of Dale Road; and

WHEREAS, after said public hearing, the Planning Commission adopted Resolution No. 2022-08, recommending to the City Council an amendment to the Modesto Urban Area General Plan to change the land use designation of 67 acres from Business Park (BP) to Mixed Use (MU); and

WHEREAS, said matter was set for a public hearing of the City Council to be held on April 12, 2022, 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 Land Use Diagram.

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

1. The proposed amendment to the Land Use Diagram of the General Plan will provide for diversity in the development of Mixed Uses including Medium-High Density Residential uses within the Kiernan Business Park Specific Plan, consistent with the Mixed Use designation.
2. An Initial Study, Environmental Assessment No. EA/C&ED 2022-06, was prepared by the City of Modesto that analyzed the proposed project and determined that, on the basis of the whole record before it there is no substantial evidence that the project will have a significant effect on the environment, and that a Negative Declaration be adopted.

BE IT FURTHER RESOLVED by the Council of the City of Modesto that it hereby finds and determines that the proposed amendment to the Modesto Urban General Plan to as described in **Exhibit “A”, attached** hereto and incorporated herein by reference, is required for the public health, safety, and welfare of the citizens of Modesto.

BE IT FURTHER RESOLVED by the Council of the City of Modesto that it hereby adopts the proposed amendment to the Urban Area General Plan as described in **Exhibit “A”, attached** hereto and incorporated herein by reference.

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 general plan amendment for the Property. The City of Modesto shall promptly notify the applicant of any claim, action, or proceeding.

BE IT FURTHER RESOLVED by the Council of the City of Modesto that the Community and Economic Development Department Director is hereby authorized and directed to forward certified copies of this resolution and said amendment to the Urban Area 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.

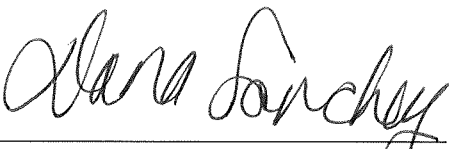
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 12th day of April, 2022, by Councilmember Wright, who moved its adoption, which motion being duly seconded by Councilmember Madrigal, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Escutia-Braaton, Kenoyer, Madrigal, Ricci, Wright, Mayor Zwahlen

NOES: Councilmembers: None

ABSENT: Councilmembers: Zoslocki

ATTEST:

  
DANA SANCHEZ, Interim City Clerk

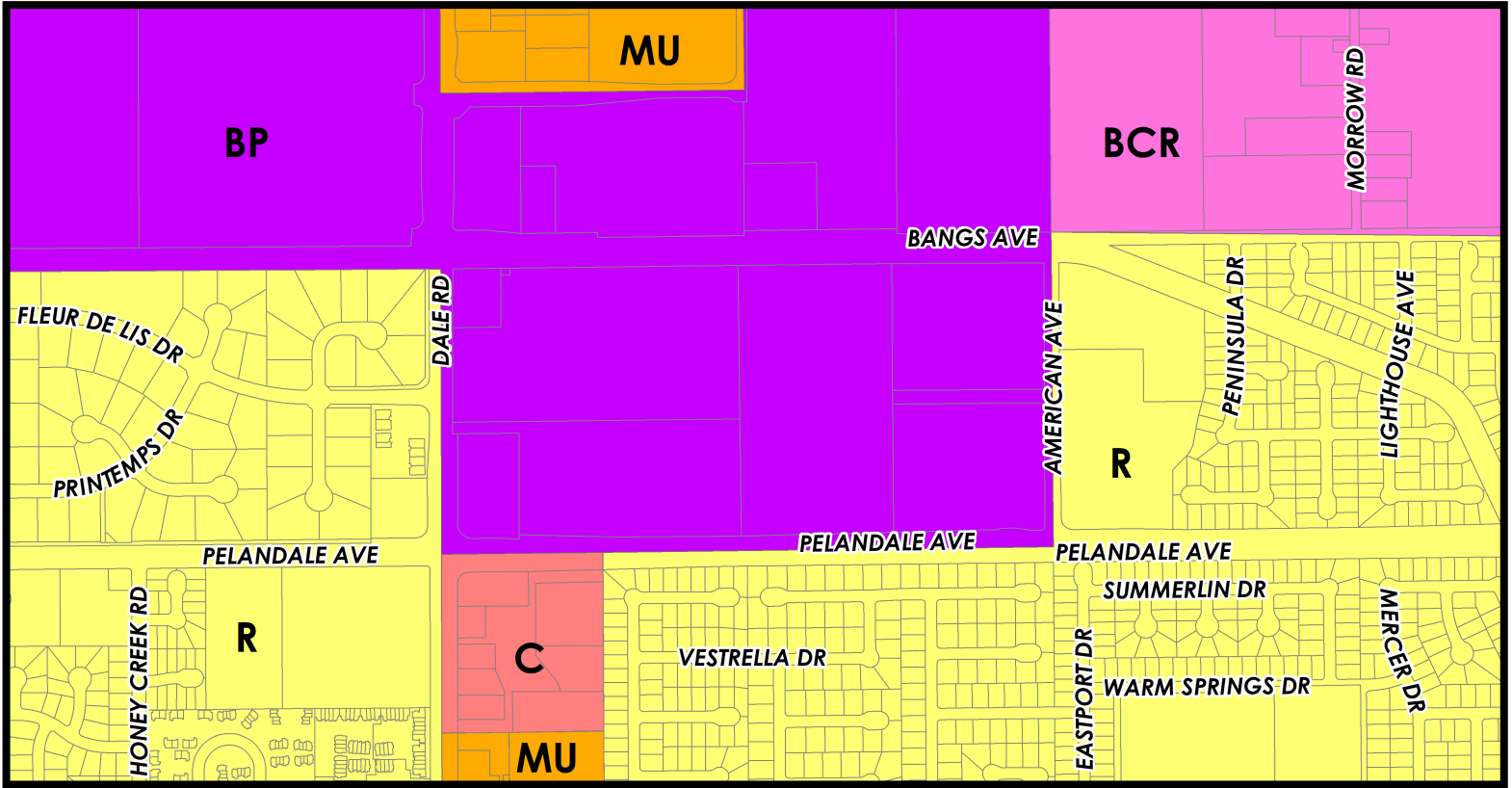
(SEAL)

APPROVED AS TO FORM:

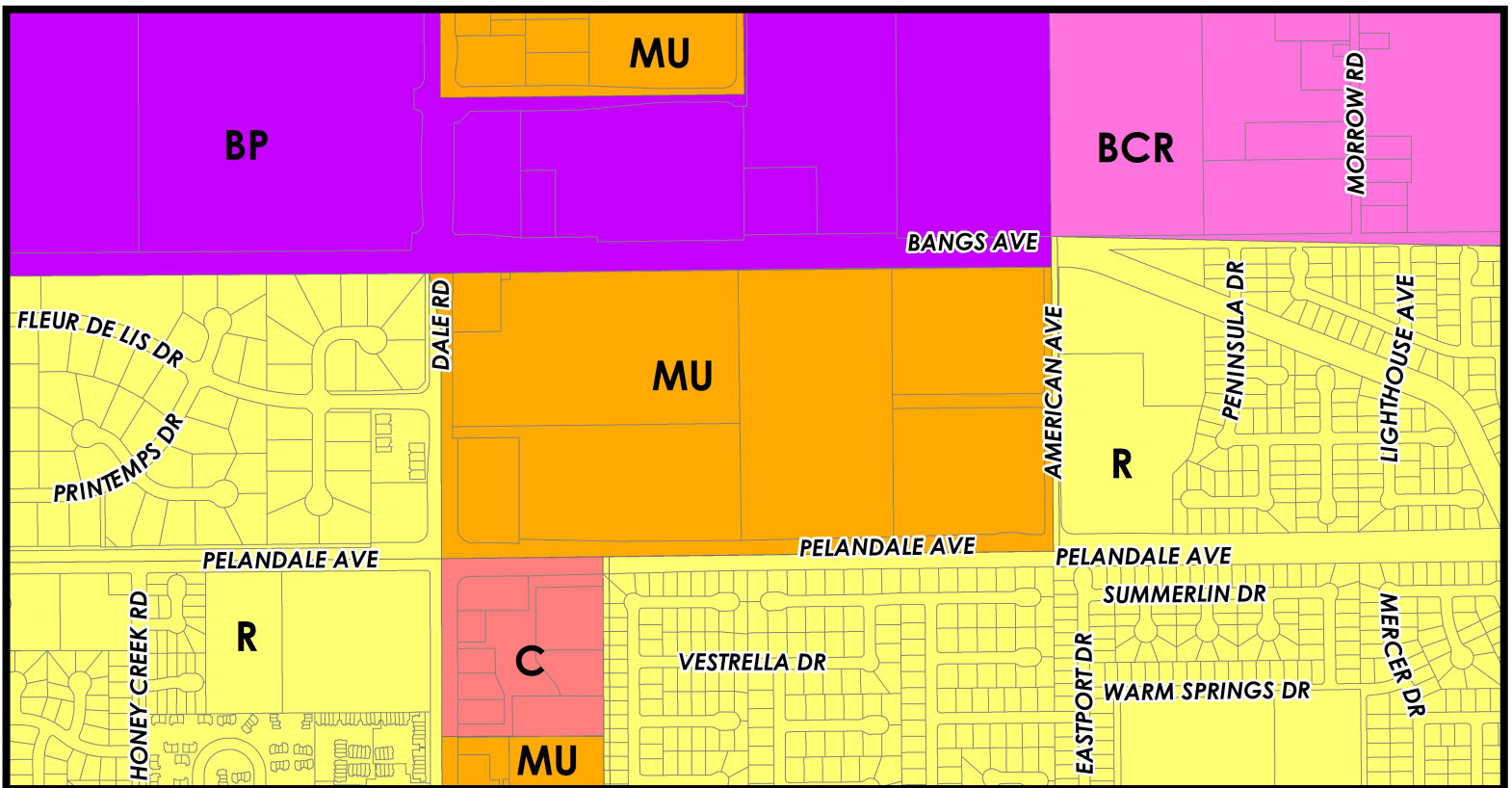
BY:   
JOSE M. SANCHEZ, City Attorney

## **EXHIBIT A**

Exhibit A



**CURRENT GENERAL PLAN LAND USE**



**PROPOSED GENERAL PLAN LAND USE**

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2022-194**

**RESOLUTION APPROVING AMENDMENT NO. 12 TO THE KIERNAN  
BUSINESS PARK SPECIFIC PLAN TO CHANGE THE LAND USE  
DESIGNATION OF 67 ACRES FROM BUSINESS PARK (BP) TO THE NEW  
LAND USE DESIGNATION OF MIXED USES 3 (MU3), PROPERTY LOCATED  
NORTH OF PELANDALE AVENUE AND EAST OF DALE ROAD, TOGETHER  
WITH AN AMENDMENT TO THE CIRCULATION PLAN OF THE SPECIFIC  
PLAN TO CHANGE BANGS AVENUE FROM A FOUR-LANE COLLECTOR  
STREET TO A TWO-LANE COLLECTOR STREET**

WHEREAS, on April 1, 1997, the City Council by Resolution No. 97-159,  
adopted the Kiernan Business Park 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, on November 4, 1997, the City Council by Resolution No. 97-631  
adopted Amendment No. 1 to the Kiernan Business Park Specific Plan to add language to  
allow for changes in utility service providers; and

WHEREAS, on April 7, 1998, the City Council by Resolution No. 98-170  
adopted Amendment No. 2 to the Kiernan Business Park Specific Plan to add language to  
permit indoor theaters in the Regional Commercial Designation within a Planned  
Development Zone; and

WHEREAS, on August 10, 2004, the City Council by Resolution No. 2004-424  
adopted Amendment No. 3 to modify the land use and circulation diagrams and  
development standards for the Kaiser Medical Center site, to revise the planned street  
system in the future business park, and to incorporate design standards into the Specific  
Plan; and

WHEREAS, on September 1, 2009, the City Council by Resolution No. 2009-420 adopted Amendment No. 4 to re-designate 39 acres located on the east side of Dale Road between Kiernan Avenue and Bangs Avenue from Business Park (BP) to Mixed Use (MU) and Medium-High Density Residential (MHDR), to modify the circulation plans, incorporate MU and MHDR design standards and guidelines, and establish facilities plans for the area bounded by Kiernan Avenue, Dale Road, Bangs Avenue, and American Avenue; and

WHEREAS, on December 15, 2015, the City Council by Resolution No. 2015-499 adopted Amendment No. 5 to amend the storm drain provisions and to clarify and simplify land use and development standard regulations for the Specific Plan; and

WHEREAS, on May 2, 2017, the City Council by Resolution No. 2017-171 adopted Amendment No. 6 to amend the definition of allowable and conditional uses in the Business Park land use designation of the Specific Plan, particularly regarding ancillary retail uses; and

WHEREAS, on May 1, 2018, the City Council by Resolution No. 2018-166 adopted Amendment No. 7 to change the land use designation of 2.8 acres located on Pelandale Avenue east of Chapman Road from Office (O) uses to Regional Commercial (RC) uses; and

WHEREAS, on October 5, 2018, the Director of Community and Economic Development approved Amendment No. 8 to the Specific Plan, a minor administrative amendment as provided by Section IX-B.1.a of the Specific Plan, to allow for development of up to 33 additional dwelling units within the Mixed Use (MU) land use designation; and

WHEREAS, on December 18, 2018, the Director of Community and Economic Development approved Amendment No. 9 to the Specific Plan, a minor administrative amendment as provided by Section IX-B.1.a of the Specific Plan, to amend the Circulation Plan of the Specific Plan relative to the alignment of Healthcare Way west of Dale Road and the Kaiser Modesto Medical Center; and

WHEREAS, on February 9, 2021 the City Council by Resolution No. 2021-45 approved Amendment No. 10 to the Specific Plan, to change the land use designation of 22.9 acres located on the north side of Healthcare Way west of Dale Road from Business Park (BP) to the new land use designation of Mixed Use 2 (MU2) to allow for Business Park uses or Medium High Density Residential uses to a maximum of 550 dwelling units or a mixture of the two uses; and

WHEREAS, on August 4, 2021 the City Council by Resolution No. 2021-308 approved Amendment No. 11 to the Specific Plan, to change the land use designation of 3.5 acres from Business Park (BP) to Mixed Uses (MU), property located at the northeast corner of Bangs Avenue and Dale Road; and

WHEREAS, the Grupe-Huber Company has filed an application to amend the Kiernan Business Park Specific Plan to change the land use designation of 67 acres located north of Pelandale Avenue and east of Dale Road from Business Park (BP) to the new land use designation of Mixed Uses 3 (MU3) to allow for Mixed Uses or Medium-High Density Residential of a minimum of 15 dwelling units per acre and a maximum of 16 dwelling units per acre, or a mixture of the two uses; and

WHEREAS, the applicant also proposes to amend the Circulation Diagram of the Specific Plan to change the designation of Bangs Avenue from a four-lane major collector street to a two-lane minor collector street, its current configuration; and

WHEREAS, said application was made concurrently with a proposed amendment to the General Plan Land Use Diagram to amend the land use designation of 67 acres from Business Park (BP) to Mixed Use (MU) (project GPA-21-003); and

WHEREAS, on December 22, 2021 the proposed Specific Plan Amendment was referred to the Stanislaus and Modesto School Districts, Modesto Irrigation District, Local Agency Formation Commission, County Planning and Community Development, and the Environmental Resources Director, for a 45-day referral period in accordance with Government Code sections 65453 and 65352; and

WHEREAS, the City of Modesto prepared an Initial Study (Environmental Assessment C&ED/EA 2022-06) that evaluated the environmental impacts of the project, and based on the Initial Study conclusion that there would not be any significant impacts on the environment, a Negative Declaration has been prepared for the project; and

WHEREAS, on March 7, 2022, at 6:00 p.m. the Planning Commission held a duly noticed public hearing in the Tenth Street Place Chambers located at 1010 Tenth Street, Modesto, California, at which hearing evidence both oral and documentary was received and considered concerning the proposed amendment to the Kiernan Business Park Specific Plan; and

WHEREAS, after said public hearing, the Modesto City Planning Commission by Resolution No. 2022-07, recommended to the City Council approval of an amendment to the Kiernan Business Park Specific Plan to change the land use designation of 67 acres

located north of Pelandale Avenue and east of Dale Road from Business Park (BP) to the new land use designation of Mixed Uses 3 (MU3) to allow for Mixed Uses and Medium-High Density Residential of 15 dwelling units per acre at minimum and 16 dwelling units per acre at maximum, and change the designation of Bangs Avenue from a four-lane major collector street to a two-lane minor collector street in the Circulation Plan of the Specific Plan; and

WHEREAS, said matter was set for a public hearing of the City Council to be held on August 4, 2021, in the Tenth Street Place Chambers located at 1010 Tenth Street, Modesto, California, at which date and time said duly noticed public hearing was held.

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

1. The proposed Amendment No. 12 to the Kiernan Business Park Specific Plan, to change the land use designation of 67 acres located north of Pelandale Avenue and east of Dale Road and Bangs Avenue from Business Park (BP) uses to the new land use designation of Mixed Use 3 (MU3) would be consistent with the Modesto Urban Area General Plan as amended, including the Housing Element of the General Plan, because the amendment would result in a mix of uses including Medium-High Density Residential uses that would provide for a diversity of housing within the Specific Plan.
2. The associated amendment of the Specific Plan's Circulation Diagram to amend Bangs Avenue from "Major Collector Street" to "Minor Collector Street", would be consistent with the current General Plan Circulation

Element because Bangs Avenue currently functions as a two-lane minor collector street and is designated as such in the General Plan Circulation Element.

3. The proposed amendments would be in conformance with the Specific Plan's polices and standards because any future development as a result of the amendments would be required to adhere to the development standards and design guidelines of the Specific Plan.
4. The proposed amendment would allow for Mixed Uses that would be compatible with existing commercial, office and church uses within and in near proximity to the amendment area.
5. Future development as a result of the proposed amendment would have negligible visual impact both on-site and on-site with application of the development standards and design guidelines of the Specific Plan, would have less than significant traffic impact than if the area were to develop with Business Park uses, and would be consistent with the adopted Facilities Master Plan and Infrastructure Financing Plan.
6. A Negative Declaration, Environmental Assessment No. EA/C&ED No. 2022-6, was prepared by the City of Modesto that analyzed the proposed amendments and determined that, on the basis of the whole record before it, there is no substantial evidence that the amendments will have a significant effect on the environment and that a Negative Declaration be adopted.

BE IT FURTHER RESOLVED by the Council of the City of Modesto that the Kiernan Business Park Specific Plan is hereby amended to change the land use designation of 67 acres located north of Pelandale Avenue and east of Dale Road from Business Park (BP) to the new land use designation of Mixed Use 3 (MU3), and further amended to change the designation of Bangs Avenue from four-lane major collector street to two-lane minor collector street in the Circulation Plan of the Specific Plan, all as shown on **Exhibit "A" attached** hereto and incorporated herein by reference.

BE IT FURTHER RESOLVED that 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.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 12th day of April, 2022, by Councilmember Escutia-Braaton, who moved its adoption, which motion being duly seconded by Councilmember Kenoyer, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Escutia-Braaton, Kenoyer, Madrigal, Ricci, Wright, Mayor Zwahlen

NOES: Councilmembers: None

ABSENT: Councilmembers: Zoslocki

ATTEST:   
DANA SANCHEZ, Interim City Clerk

(SEAL)

APPROVED AS TO FORM:

BY:   
JOSE M. SANCHEZ, City Attorney

**Exhibit A**

**Amendment No. 12 to the Kiernan Business Park Specific Plan**

The Land Use Summary of Kiernan Business Park is summarized below in Table III-1.

Development Area	Approximate Gross Acres	Maximum Density Allowed (sf) <sup>1</sup>	Dwelling Unit Max
<b>Business Park Area (BP)</b>			
Phase I	<del>135.1</del> 68.1	<del>2,352,940</del> 1,166,891 sf	n/a
Phase II	313.8	5,465,234 sf	n/a
<b>Subtotal</b>	<b>448.9</b> <b>380.9</b>	<b>7,818,174</b> <b>6,632,125 sf</b>	n/a
<b>Office Area (O)</b>			
Phase I	18.5	282,100 sf	n/a
Phase II	0		n/a
<b>Subtotal</b>	<b>18.5</b>	<b>282,100 sf</b>	n/a
<b>Regional Commercial Area (RC)</b>			
Phase I	55.4	965,300 sf	n/a
Phase II	0		n/a
<b>Subtotal</b>	<b>55.4</b>	<b>965,300 sf</b>	n/a
<b>Medical Campus (MC)</b>			
Phase I	49.0	1,425,000 sf	n/a
Phase II	0		n/a
<b>Subtotal</b>	<b>49.0</b>	<b>1,425,000 sf</b>	n/a
<b>Medium High Density Residential (MHDR) Area</b>			
Phase I	15.9	400,000gsf <sup>2</sup> .	262 units <sup>3</sup>
Phase II	0	0	0
<b>Subtotal</b>	<b>15.9</b>	<b>400,000gsf.</b>	<b>262 units</b>

<sup>1</sup> Source: City of Modesto Initial Study Environmental Checklist, June 2007 and A.C. Martin Partners Inc., 2006

<sup>2</sup> Gross square footage does not include garage area.

<sup>3</sup> Since senior housing generates only 51% of the trips of conventional multi-family housing, up to 500 dwelling units of senior housing may be allowed in lieu of or in combination with conventional multi-family housing, as long as the equivalent number of dwelling units does not exceed 262 units.

Table III-1 (Continued from Page 3)

Development Area	Approximate Gross Acres	Maximum Density Allowed (sf) <sup>1</sup>	Dwelling Unit Max
<b>Mixed Use (MU) Area</b>			
Phase I	26.5	268,000 gsf	n/a
(Hotel and Hospitality)		170,000 gsf	
(Residential)		113,000 gsf <sup>2</sup>	80
Phase II	0	0	0
<b>Subtotal</b>	<b>26.5</b>	<b>551,000 gsf</b>	<b>113 units</b>
<b>Mixed Use 2 (MU2) Area<sup>3</sup> Phase II</b>			
BP Scenario Maximums	22.9	Included in Business Park Area (BP) Phase II above	n/a
MHDR Scenario Maximums	22.9	550,000 gsf (MHDR)	550 units
<b>Subtotal</b>	<b>22.9</b>	<b>550,000 gsf (if MHDR)</b>	<b>550 units (if MHDR)</b>
<b><u>Mixed Use 3 (MU3) Area<sup>4</sup> Phase I</u></b>			
<u>MU Scenario Maximums</u>	<u>67</u>	<u>Included in Mixed Use Area (MU) Phase I above</u>	
<u>MHDR Scenario Maximums</u>	<u>67</u>	<u>15 du/ac min</u> <u>16 du/ac max</u>	<u>1012 (if MHDR)</u>
<b><u>Subtotal</u></b>	<b><u>67</u></b>		<b><u>1012</u></b>
<b>Total</b>	<b>614.0</b>		<b><u>9251937</u><sup>5</sup> <b>units</b></b>

Table III-1: Kiernan Business Park - Maximum Buildout Land Use Scenario Summary for Phase I (area east of Dale Road) and Phase II (area west of Dale Road)

<sup>1</sup> Source: City of Modesto Initial Study Environmental Checklist, June 2007 and A.C. Martin Partners Inc., 2006

<sup>2</sup> Residential GSF in the Mixed Use (MU) Area does not include support square footage for areas such as corridors, lobbies, janitorial spaces, and any common areas such as a TV lounge of business center.

<sup>3</sup> MU2 can develop as either BP or MHDR, or a combination, so maximums show in each scenario are not cumulative and should not be counted as such in subtotals or totals.

<sup>4</sup> MU3 can develop as either MU or MHDR, or a combination, to a minimum density of 15 units per acre and a maximum density of 16 units per acre.

<sup>5</sup> Dwelling Unit Maximum of 892-1937 if MU2 develops at 550 units and MU3 develops at 1012 units.

**7. Mixed Use 2 (MU2) Area Permitted Uses**

- a. Allowable Uses. The land uses allowed in the Mixed Use 2 (MU2) Area shall be those uses allowable in the Business Park (BP) Area or the Medium High Density Residential (MHDR) Area of the Specific Plan. MHDR uses shall be at a minimum density of 15 dwelling units per acre.
- b. Conditional Uses. The land uses permitted in the Mixed Use 2 (MU2) Area subject to approval of a Conditional Use Permit in accordance with Section 10-9.701 et seq. shall be those conditional uses permitted in the Business Park (BP) Area of the Specific Plan.
- c. Ancillary Uses. The ancillary uses allowed in the Mixed Use 2 (MU2) Area shall be those allowed in the Business Park (BP) Area of the Specific Plan.

**8. Mixed Use 3 (MU3) Area Permitted Uses**

- a. Allowable uses. The land uses allowed in the Mixed Use 3 (MU3) Area shall be those uses allowable in the Mixed Use (MU) Area or the Medium High Density Residential (MHDR) Area of the Specific Plan. MHDR uses shall be at a minimum density of 15 dwelling units per acre, and a maximum density of 16 dwelling units per acre.
- b. Conditional Uses. The land uses permitted in the Mixed Use 3 (MU3) Area subject to approval of a Conditional Use Permit in accordance with Section 10-9.701 et seq. shall be those conditional uses permitted in the Mixed Use (MU) Area of the Specific Plan.

**C. Affordable Housing Strategy**

The City of Modesto has adopted the "City of Modesto Housing Element". This document has two main purposes:

- 1. To provide an assessment of both current and future housing needs and constraints in meeting those needs; and
- 2. To provide strategy that establishes housing goals, policies, and programs.

Through the review of this document, it has been determined that affordable housing, while encouraged, is not required

- Data from the General Plan Traffic Analysis, described in the Traffic Appendix of the Master EIR, shall be utilized to evaluate the effectiveness of the Policies presented above. (Section B, p. V-11)
- Newly developing areas should provide a street pattern capable of accommodating transit service on a one-half mile grid. (Section I, p. V-27)
- The City shall strive to safeguard options for future transit and mass transportation development, such as the Union Pacific railroad right-of-way. (Section I, V-27)

#### 4. Planned Area Wide Circulation

As part of development included in the City of Modesto General Plan, the surrounding and internal transportation network for the Specific Plan Area would be expanded and modernized. Under ultimate build-out of the City's General Plan (estimated at the year 2025), both Kiernan Avenue and Pelandale Avenue (east of Dale Road) would be improved to six-lane expressways. In addition, Chapman Road would be extended to the south to intersect with Pelandale Avenue and improved to a four-lane arterial, and Dale Road would be improved to a six lane principal arterial within the Specific Plan area.

Figure III-2, Circulation Plan Diagram, shows the proposed roadway system in the Specific Plan area. This roadway system was designed using the City of Modesto's Transportation Model and in coordination with City of Modesto planning and public work staff.

As development occurs, modifications to the minor collector street layouts may be made without the need for a Specific Plan Amendment.

The proposed site circulation plan consists of the following elements: pedestrian, bicycle, non-motorized, public transportation, and truck and automobile circulation.

Because of their functions as gateways, Chapman/Quinturn and Dale Roads have been planned with generous median and sidewalk landscaping.

Internal access to parcels within the Specific Plan area will be provided from planned east-west, two-and-four-lane collector streets. The new collectors have been planned with generous landscape areas. The Bangs Avenue segment from Dale Road to American Avenue is planned as a ~~four-lane major~~ two-lane minor collector. Two two-lane, minor collectors also provide internal access. These include an extension of Bangs Avenue from Landmark Business Park to Chapman Road and an extension of American Avenue from Kiernan Avenue to Pelandale Avenue. In addition, the remaining portion of Chapman Road north of the realignment will be designated a minor collector and the current connection to Kiernan Avenue will be replaced by a cul-de-sac bulb.

The Specific Plan circulation system provides access to most parcels via minor collector streets. Most of the collectors provide east-west connections to north-south arterials, Chapman Road/Quinturn Lane and Dale Road. A north-south connection between the Kiernan Avenue and Pelandale Avenue expressways is provided via the American Avenue extension east of Dale Road. This connection would provide right-turn-in/right-turn-out access only, as shown on the Circulation Plan Diagram.

As development occurs, modifications to the minor collector street layouts may be made without the need for a Specific Plan Amendment.

In order to allow some flexibility in the types of uses and sizes of various parcels, local streets have not been included in the Specific Plan network, but are assumed to be part of future development. Local streets will be designed as part of the tentative subdivision map application.

***Policy C-5: The City shall promote the improvement and development of Kiernan Avenue and Pelandale Avenue and their connection to Highway 99 to accommodate future development in the Kiernan Business Park area.***

Project will utilize 12-inch diameter and 10-inch diameter sanitary sewer lines throughout the business park for service. The existing sewer trunk lines located within Dale Road and Bangs Avenue were designed consistent with the prior Specific Plan's zoning and will be utilized by the project.

Proposed sanitary sewer facilities are shown in Figure III-10 for Kiernan Business Park East and South. As shown in Figure III-10, connections to the existing sanitary sewer system will be made to the existing 30-inch diameter pipeline located in Dale Road and to the existing 30-inch diameter pipeline located in Bangs Avenue.

In the event right-of-way or legal access to extend sewer lines is not available, alternative methods for sewer extensions may be considered on either a temporary or permanent basis.

Sanitary sewer lines to service the Kiernan Business Park can be installed as development occurs. All on site branch lines for development will be sized in accordance with the City of Modesto's current design standards and criteria.

Improvements will be built in accordance with the Facilities Master Plan (FMP) and funded through an Infrastructure Financing Plan (IFP).

#### 4. Water System

*Policy PF-6: The City shall require all new development to be served by a public water system.*

*Policy PF-7: The City shall require all water lines to be constructed and sized according to current City Standards (and subsequent updates).*

*Policy PF-8: The City shall require all water lines to be within the public street right-of-way, or if appropriate and approved by the City, in public easements within private driveways or roadways.*

*Policy PF-9: The City shall require each water line to be completed before the street under which it is to be located is paved.*

The City of Modesto is the sole provider of municipal and industrial water service to the Specific Plan area.

The City's water supply sources include groundwater from the Stanislaus/Tuolumne and Turlock groundwater sub-basins and treated surface water from the Modesto Irrigation District (MID). Modesto Irrigation District (MID) and the City of Modesto (City) are currently moving forward on the Modesto Regional Water Treatment Plant Phase Two expansion and the city's water distribution project. Phase Two is intended to double the capacity of the MID's water treatment plant. Along with this expansion, the City will build new storage tanks and pipelines to deliver the needed water supply to the community. Construction of the Phase Two expansion is expected to be completed December 2008.

The City's water distribution generally consists of a network of 12-inch lines on half-mile increments and 10-inch lines on quarter mile increments with local 8-inch distribution lines.

A new well and distribution system will be constructed to serve the Kiernan Business Park.

A Water Supply Assessment prepared by West Yost Associates in April 2007 determined the City of Modesto's existing and future water supplies are sufficient to meet the City's existing and projected future water demands, including those future demands associated with the proposed project. As indicated in the Technical Memorandum prepared by West Yost Associates titled "Evaluation of the Kiernan Business Park East Project's Hydraulic Impacts on the City's Existing Water System" (June 4, 2007), Project specific improvements will consist of 12-inch diameter and 10-inch diameter water distribution pipelines throughout the Kiernan Business Park. As shown in Figure III-9, connections to the existing domestic water system for Kiernan Business Park East and Kiernan Business Park South will be made to the proposed 12-inch diameter pipeline in Bangs Avenue. Water lines to serve the Kiernan Business Park can be installed as development occurs.

In the event right-of-way or legal access to extend water lines is not available, alternative methods for water extensions may be considered on either a temporary or permanent basis.

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2022-195**

**RESOLUTION ADOPTING A NEGATIVE DECLARATION FOR A GENERAL PLAN AMENDMENT TO CHANGE THE LAND USE DESIGNATION OF 67 ACRES FROM BUSINESS PARK (BP) TO MIXED USE (MU), PROPERTY LOCATED NORTH OF PELANDALE AVENUE AND EAST OF DALE ROAD, TOGETHER WITH AMENDMENT NO. 12 TO THE KIERNAN BUSINESS PARK SPECIFIC PLAN TO CHANGE THE LAND USE DESIGNATION OF 67 ACRES FROM BUSINESS PARK (BP) TO THE NEW LAND USE DESIGNATION OF MIXED USES 3 (MU3) IN THE LAND USE DIAGRAM OF THE SPECIFIC PLAN, AND TO CHANGE BANGS AVENUE FROM A FOUR-LANE MAJOR COLLECTOR STREET TO A TWO-LANE MINOR COLLECTOR STREET IN THE CIRCULATION PLAN OF THE SPECIFIC PLAN**

WHEREAS, the Grupe-Huber Company has applied for an amendment to the General Plan to change the land use designation of 67 acres from Business Park (BP) to Mixed Use (MU), property located north of Pelandale Avenue and east of Dale Road; and

WHEREAS, the applicant also proposed Amendment No. 12 to the Kiernan Business Park Specific Plan to change the land use designation of 67 acres located north of Pelandale Avenue and east of Dale Road from Business Park (BP) to the new land use designation of Mixed Uses 3 (MU3) to allow for Mixed Uses or Medium-High Density Residential of a minimum of 15 dwelling units per acre and a maximum of 16 dwelling units per acre, or a mixture of the two uses; and

WHEREAS, the applicant also proposed to amend the Circulation Diagram of the Specific Plan to change the designation of Bangs Avenue from a four-lane major collector street to a two-lane minor collector street, its current configuration; and

WHEREAS, Section 15070 of the CEQA Guidelines relating to Initial Study/Negative Declaration provides for a lead agency to prepare an Initial Study on any

proposed project to analyze whether the project may cause any significant effect on the environment; and

WHEREAS, the City of Modesto Department of Community and Economic Development has prepared an Initial Study/ Negative Declaration (EA/C&ED No. 2022-06) as provided for by CEQA; and

WHEREAS, a 20-day public review period for the proposed Initial Study/ Negative Declaration began on February 13, 2022, and ended on March 4, 2022; and

WHEREAS, the City received no public comments on the draft Initial Study/Negative Declaration; and

WHEREAS, said matter was considered by the Planning Commission at a duly noticed public hearing which was held on March 7, 2022, whereupon the Planning Commission considered the Initial Study/Negative Declaration and recommended that the City Council adopt the Negative Declaration; and

WHEREAS, said matter was considered by the City Council at a duly noticed public hearing which was held on April 12, 2022, 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, Environmental Assessment No. EA/C&ED 2022-06, a copy of which is on file with the Community and Economic Development Department, Third Floor, 1010 Tenth Street, Modesto, California, and **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 Initial Study/Negative Declaration prepared for the proposed project shows there is no substantial evidence, in light of the whole record before the City, that the project may have significant environmental effects;
2. The Initial Study/Negative Declaration reflects the independent judgment of the lead agency;
3. The Initial Study, Environmental Assessment No. EA/C&ED 2022-06, provides the substantial evidence to support findings 1-2, noted above.

BE IT FURTHER RESOLVED that 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.

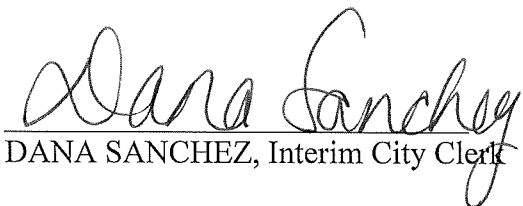
BE IT FURTHER RESOLVED by the Council of the City of Modesto that the Community & Economic Development Director is hereby authorized and directed to file a notice of approval or determination within five (5) business days with the Stanislaus County Clerk pursuant to Section 21152 of the Public Resources Code.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 12th day of April, 2022, by Councilmember Escutia-Braaton, who moved its adoption, which motion being duly seconded by Councilmember Madrigal, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Escutia-Braaton, Kenoyer, Madrigal, Ricci, Wright, Mayor Zwahlen

NOES: Councilmembers: None

ABSENT: Councilmembers: Zoslocki

ATTEST:   
DANA SANCHEZ, Interim City Clerk

(SEAL)

APPROVED AS TO FORM:

BY:   
JOSE M. SANCHEZ, City Attorney

**EXHIBIT A**

Initial Study

EA/C&ED No. 2022-06

**Negative Declaration  
for the Kiernan Business Park Specific Plan  
Amendment No. 12 and  
General Plan Amendment  
(GPA-21-003/SPA-21-003)  
Environmental Assessment No. EA/C&ED 2022-06**

*Prepared for:*

City of Modesto  
P.O. Box 642  
Modesto, CA 95353  
Contact: Katharine Martin, Senior Planner  
209/209-577-5267

*Prepared by:*

City of Modesto  
Community & Economic Development Department  
209/577-5267

February 3, 2022

## CEQA Environmental Checklist

### PROJECT DESCRIPTION AND BACKGROUND

**Project Title:**

GPA-21-003/SPA-21-003: Kiernan Business Park Specific Plan Amendment No. 12 and General Plan Amendment

**Lead agency name and address:**

City of Modesto, 1010 Tenth Street, Suite 3300, Modesto CA 95354

**Contact person and phone number:**

Katharine Martin, Senior Planner, 209-577-5267

**Project Location:**

67 acres between Bangs Ave./MID Lateral No. 6 and Pelandale Ave., west of American Ave. and east of Dale Ave. Assessor's parcels No. 078-018-018, -027, -031, -035, -036, -051 and -052.

**Project applicant's name and address:**

Grupe Huber Company  
1203 N. Grant Street; Stockton CA 95202

**General plan description:**

Business Park (BP)

**Zoning:**

SP (Specific Plan) as part of the Kiernan Business Park Specific Plan

**Description of project** (Describe the whole action involved, including but not limited to later phases of the project, and any secondary, support, or off-site features necessary for its implementation.):

GPA: Proposed amendment of the City of Modesto Urban Area General Plan Land Use Diagram to amend the land use of 67 acres from Business Park (BP) to Mixed Use (MU).

SPA: Proposed 67-acre amendment of the land use diagram of the Kiernan Business Park Specific Plan from Business Park (BP) to Mixed Use 3 (MU3) to allow for mixed uses including medium-high density residential uses to a minimum density of 15 units per acre and a maximum density of 16 units per acre, plus associated textual and exhibit amendments to the Specific Plan document. SPA also proposes amendment to Circulation Plan to change Bangs Avenue from four-lane major collector street to a two-lane minor collector street.

The amendment area is located within the Kiernan Business Park Specific Plan, adopted on April 1, 1997 and subsequently amended, and was previously analyzed by the Kiernan Business Park Specific Plan Amendment No. 4 Project Environmental Impact Report (SCH No. 2007062071), certified in September 2009.

The proposed amendments are being analyzed as a subsequent project to the City's General Plan MEIR (SCH 2014042081), certified in March 2019, with references to the Kiernan

Business Park Specific Plan SPA No. 4 EIR for background information and application of mitigation measures that exceed those required by the General Plan MEIR, where appropriate.

**Surrounding land uses and setting** (briefly describe the project’s surroundings):

North: SP Zone as part of the Kiernan Business Park Specific Plan, commercial and rural residential uses, vacant land;  
 South: SP Zone as part of the Pelandale-Snyder Specific Plan, neighborhood commercial uses (O'Briens Grocery and shopping center) and single-family residential uses;  
 East: SP Zone as part of the Carver-Bangs Specific Plan, Calvary Chapel Modesto Church;  
 West: Planned Development Zone P-D(483), low-density residential uses, drug store and professional/medical offices.

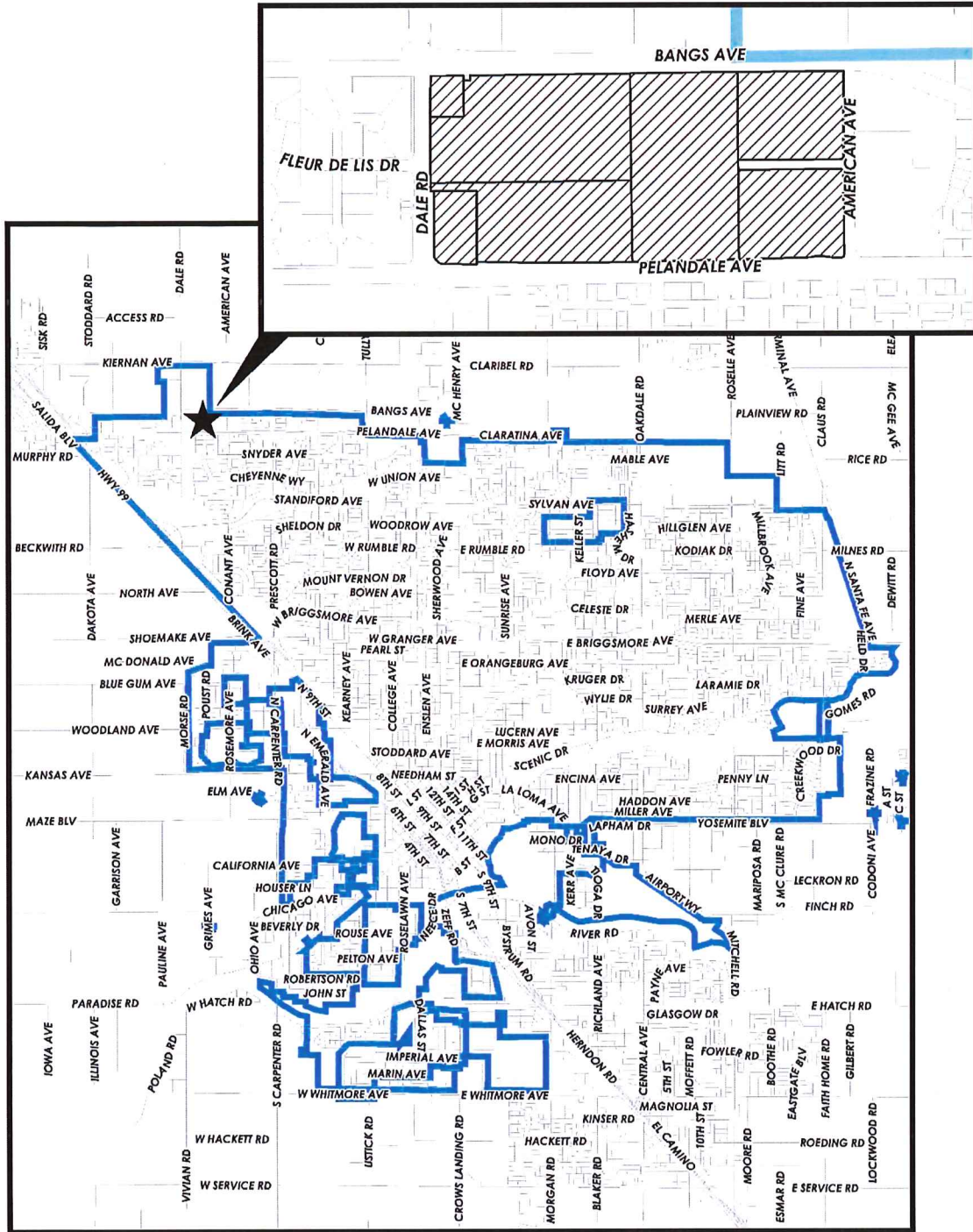
The amendment area is flat and predominately undeveloped. Approximately 20 acres of the amendment area is developed with an existing restaurant and event center, a bank, and churches and related facilities, all along the Dale Road frontage of the amendment area. The easterly 35-acre portion of the amendment area has historically been utilized for alfalfa production. No Williamson Act contracts are in place on the parcels of the amendment area. Current permitted land uses for the amendment area is Business Park (BP) as provided by Chapter III of the Specific Plan, adopted on April 1, 1997 by City Council Resolution 97-159.

**Other public agencies whose approval is required** (e.g. permits, financial approval, or participation agreements): none.

**ENVIRONMENTAL FACTORS POTENTIALLY AFFECTED:**

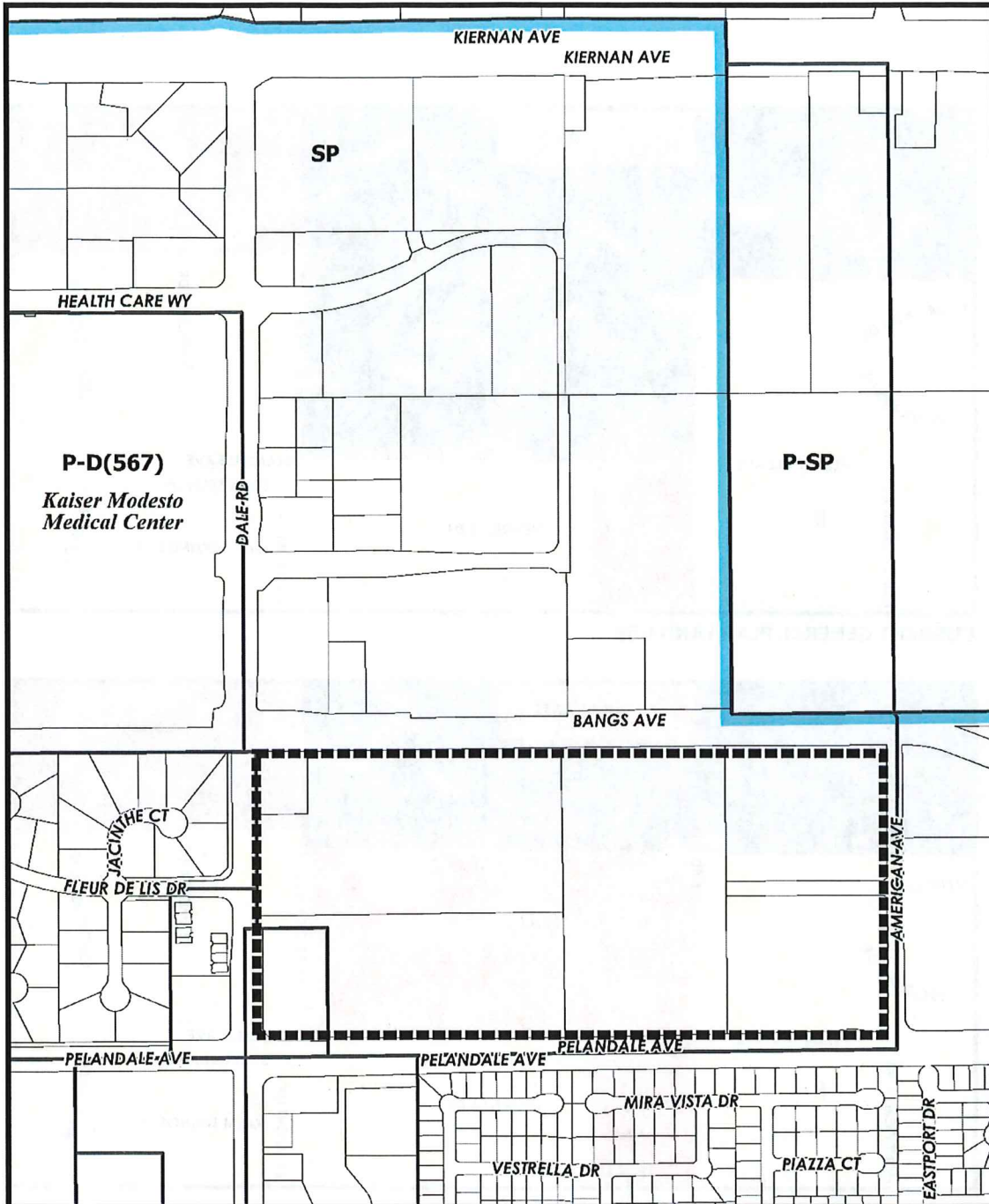
The environmental factors checked below would be potentially affected by this project. Please see the checklist beginning on page 3 for additional information.

<input type="checkbox"/>	Aesthetics	<input type="checkbox"/>	Agriculture and Forestry	<input checked="" type="checkbox"/>	Air Quality
<input checked="" type="checkbox"/>	Biological Resources	<input type="checkbox"/>	Cultural Resources	<input type="checkbox"/>	Geology/Soils
<input checked="" type="checkbox"/>	Greenhouse Gas Emissions	<input type="checkbox"/>	Hazards and Hazardous Materials	<input type="checkbox"/>	Hydrology/Water Quality
<input type="checkbox"/>	Land Use/Planning	<input type="checkbox"/>	Mineral Resources	<input type="checkbox"/>	Noise
<input type="checkbox"/>	Population/Housing	<input checked="" type="checkbox"/>	Public Services	<input type="checkbox"/>	Recreation
<input type="checkbox"/>	Transportation/Traffic	<input type="checkbox"/>	Utilities/Service Systems	<input checked="" type="checkbox"/>	Mandatory Findings of Significance



VICINITY MAP  
GPA-21-003/SPA-21-003

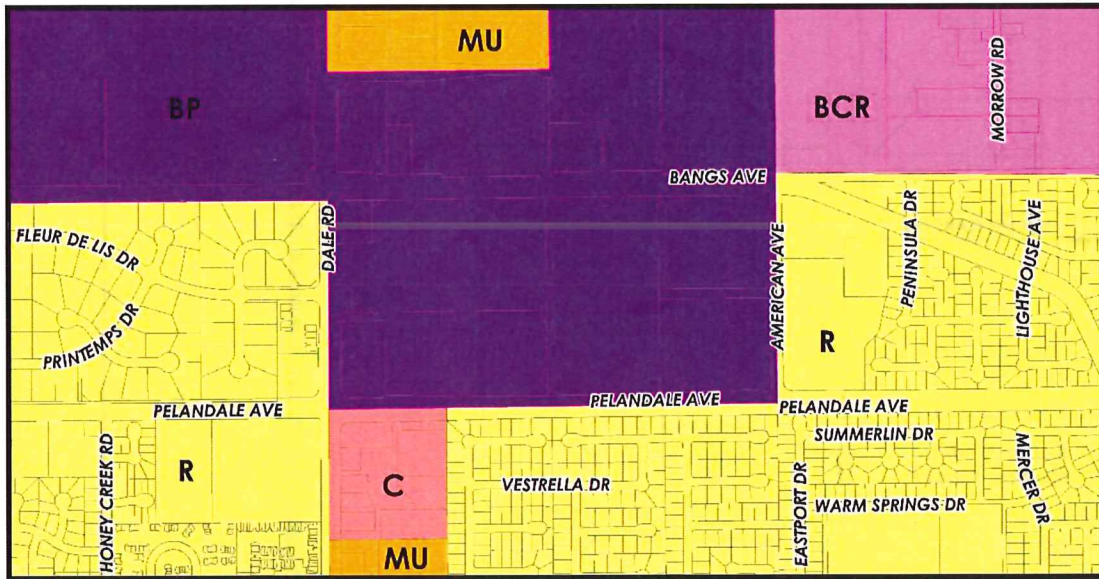




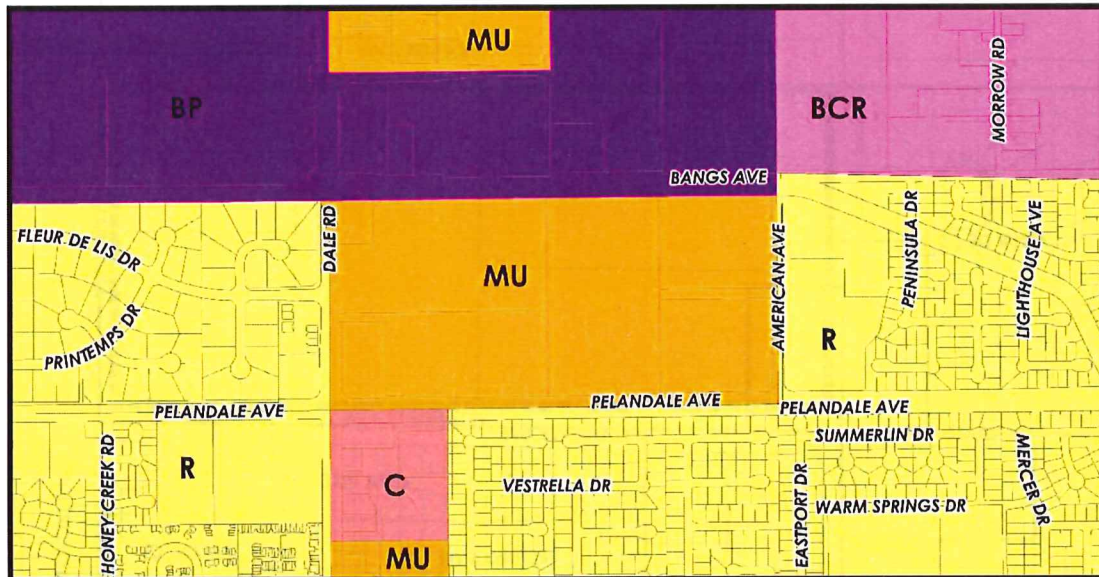
**AREA OF PROPOSED GENERAL PLAN AMENDMENT  
AND SPECIFIC PLAN AMENDMENT**

**GPA-21-003/SPA-21-003**





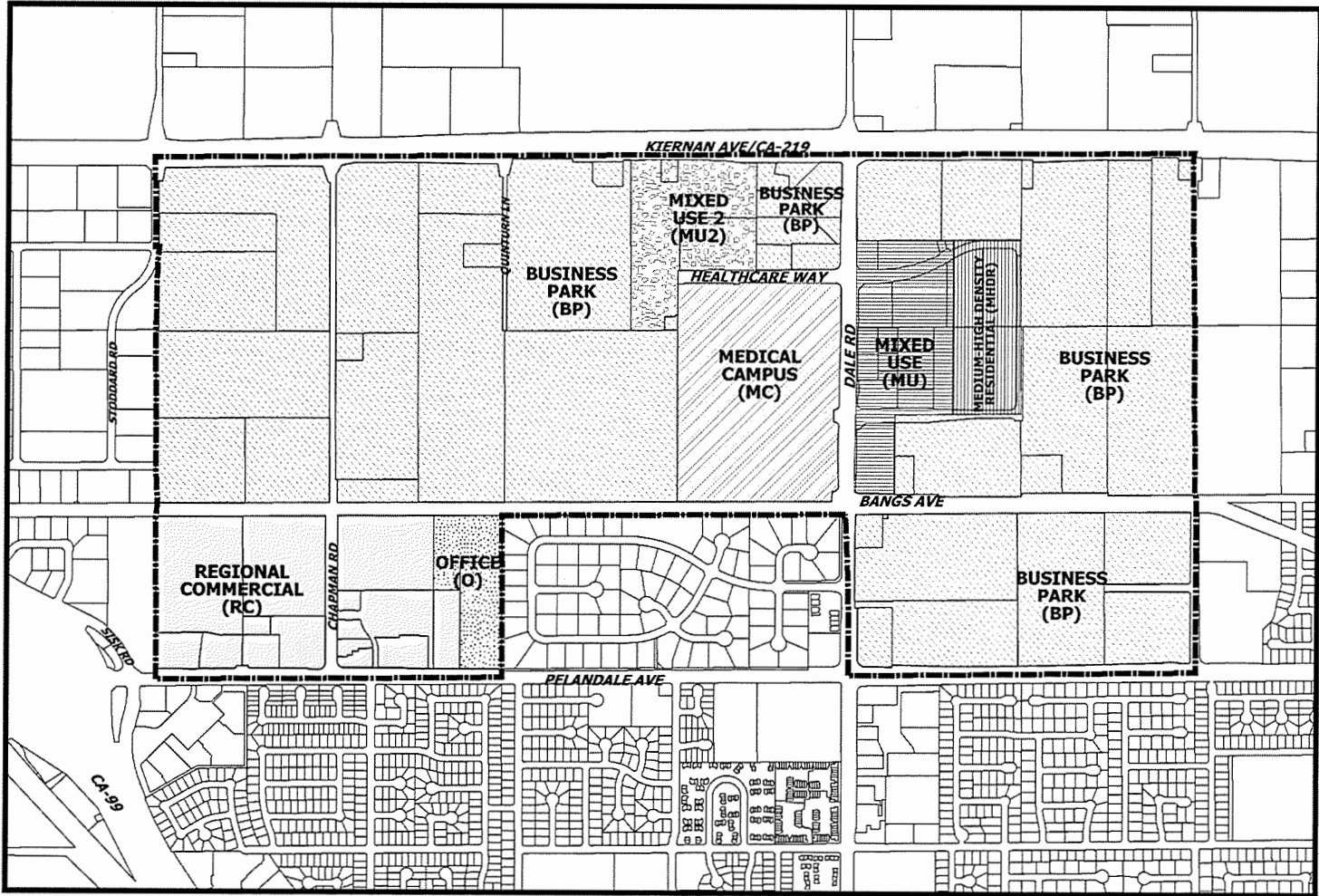
**CURRENT GENERAL PLAN LAND USE**



**PROPOSED GENERAL PLAN LAND USE**

**GENERAL PLAN AMENDMENT AREA  
GPA-21-003**

CURRENT SPECIFIC PLAN LAND USE DIAGRAM  
 SPA-21-003



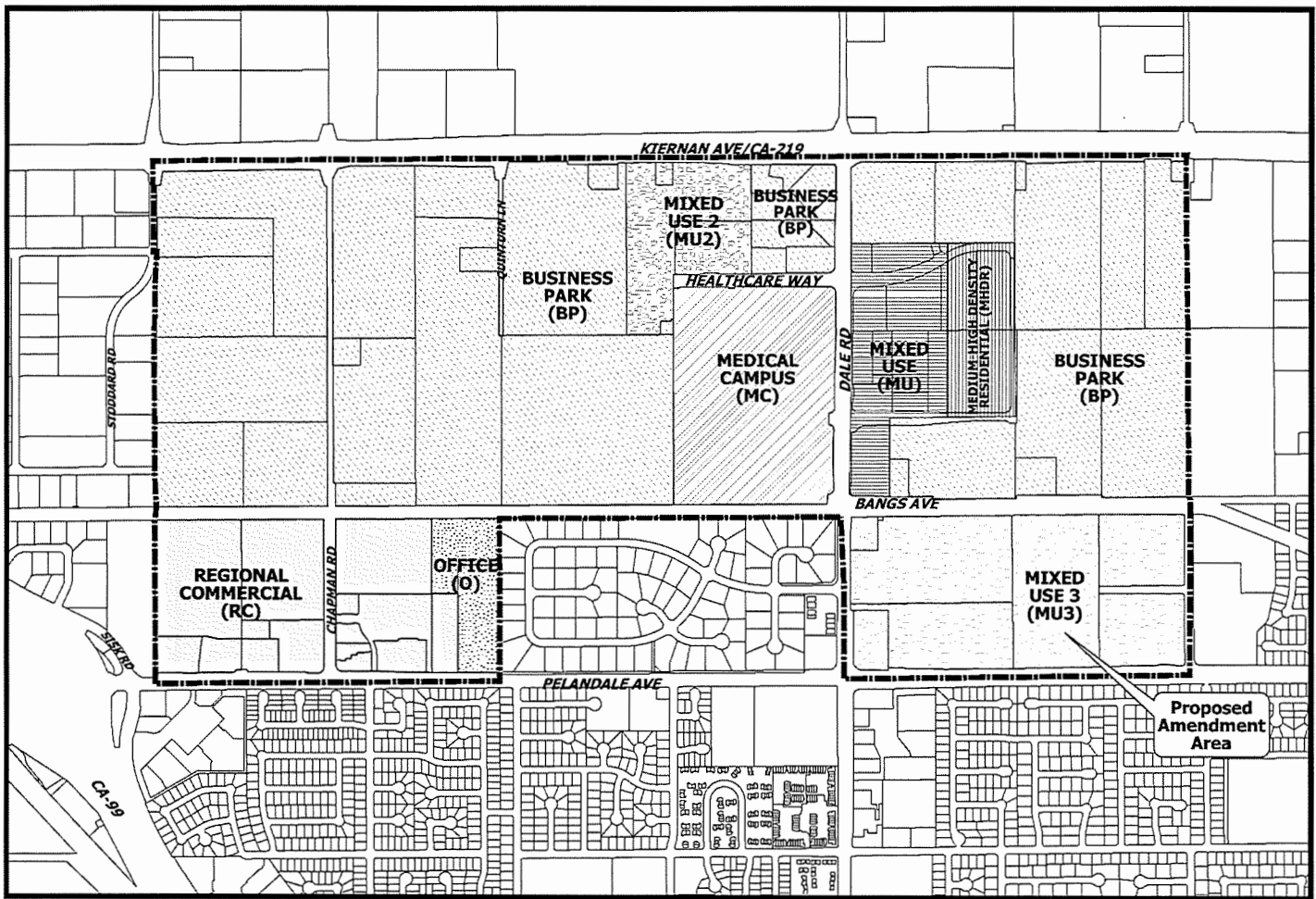
**Kiernan Business Park  
 Specific Plan**  
 Land Use Diagram  
 May 17, 2021

**Legend**

- Specific Plan Area Boundary
- Business Park (BP)
- Office (O)
- Regional Commercial (RC)
- Medical Campus (MC)
- Med-High Density Residential (MHDR)
- Mixed Uses (MU)
- Mixed Uses 2 (MU2)

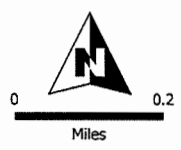


**PROPOSED AMENDMENT TO SPECIFIC PLAN LAND USE DIAGRAM**  
**SPA-21-003**



**Kiernan Business Park  
 Specific Plan  
 Land Use Diagram**  
 As proposed, GPA-21-003/SPA-21-003

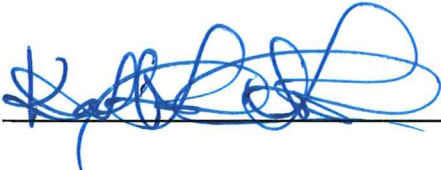
- Legend**
- Specific Plan Area Boundary
  - Business Park (BP)
  - Medical Campus (MC)
  - Office (O)
  - Mixed Uses (MU)
  - Mixed Uses 2 (MU2)
  - Mixed Uses 3 (MU3)
  - Regional Commercial (RC)



**DETERMINATION:**

On the basis of this initial evaluation:

<input checked="" type="checkbox"/>	I find that the proposed project COULD NOT have a significant effect on the environment, and a NEGATIVE DECLARATION will be prepared.
<input type="checkbox"/>	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.
<input type="checkbox"/>	I find that the proposed project MAY have a significant effect on the environment, and an ENVIRONMENTAL IMPACT REPORT is required.
<input type="checkbox"/>	I find that the proposed project MAY have a "potentially significant impact" or "potentially significant unless mitigated" impact on the environment, but at least one effect 1) has been adequately analyzed in an earlier document pursuant to applicable legal standards, and 2) has been addressed by mitigation measures based on the earlier analysis as described on attached sheets. An ENVIRONMENTAL IMPACT REPORT is required, but it must analyze only the effects that remain to be addressed.
<input type="checkbox"/>	I find that although the proposed project could have a significant effect on the environment, because all potentially significant effects (a) have been analyzed adequately in an earlier EIR or NEGATIVE DECLARATION pursuant to applicable standards, and (b) have been avoided or mitigated pursuant to that earlier EIR or NEGATIVE DECLARATION, including revisions or mitigation measures that are imposed upon the proposed project, nothing further is required

Signature: 

Date: 2-10-22

Printed Name: KATHARINE MARTIN

This checklist identifies physical, biological, social and economic factors that might be affected by the proposed project. In many cases, background studies performed in connection with the projects indicate no impacts. A NO IMPACT answer in the last column reflects this determination. Where there is a need for clarifying discussion, the discussion is included either following the applicable section of the checklist or is within the body of the environmental document itself. The words "significant" and "significance" used throughout the following checklist are related to CEQA, not NEPA, impacts. The questions in this form are intended to encourage the thoughtful assessment of impacts and do not represent thresholds of significance.

	Potentially Significant Impact	Less Than Significant with Mitigation	Less Than Significant Impact	No Impact
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**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 type="checkbox"/>	<input checked="" 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 checked="" type="checkbox"/>	<input type="checkbox"/>

**Discussion**

- a) There are no scenic vistas in the vicinity of the proposed amendment area.
- b) There are no state scenic highways within or in the vicinity of the amendment area.
- c) The amendment area is primarily undeveloped land within the City of Modesto Sphere of Influence and Planned Urbanizing Area (PUA), as part of the Kiernan Business Park Specific Plan, adopted on April 1, 1997 and subsequently updated. Approximately 20 acres of the amendment area is developed with an existing restaurant and event center, a bank and churches related facilities, all located along the Dale Road corridor. Development that would be facilitated by the General Plan and Specific Plan amendments would be similar to the commercial, office and medium-high density residential development in the vicinity of the amendment area. No significant impact would occur with visual character or quality of the site and surroundings.
- d) The amendment area is predominately undeveloped but is expected to be developed with a mixture of commercial, office and medium-high density residential uses which would create new sources of light that is consistent with urban development. Impacts would be less than significant with existing development standards for light fixtures applied to subsequent projects, such as shielding lights.

Resource: Refer to pages V-19-1 to V-19-7 of the Modesto Urban Area General Plan (MEIR), approved earlier (SCH 2014042081).

	Potentially Significant Impact	Less Than Significant with Mitigation	Less Than Significant Impact	No Impact
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**II. AGRICULTURE AND FOREST 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. In determining whether impacts to forest resources, including timberland, are significant environmental effects, lead agencies may refer to information compiled by the California Department of Forestry and Fire Protection regarding the state's inventory of forest land, including the Forest and Range Assessment Project and the Forest Legacy Assessment Project; and the forest carbon measurement methodology provided in Forest Protocols adopted by the California Air Resources Board. 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 a Williamson Act contract?                                                                                                                                                                                                       | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| c) Conflict with existing zoning for, or cause rezoning of, forest land (as defined in Public Resources Code section 12220(g)), timberland (as defined by Public Resources Code section 4526), or timberland zoned Timberland Production (as defined by Government Code section 51104(g))? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| d) Result in the loss of forest land or conversion of forest land to non-forest use?                                                                                                                                                                                                       | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| e) Involve other changes in the existing environment which, due to their location or nature, could result in conversion of Farmland, to non-agricultural use or conversion of forest land to non-forest use?                                                                               | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |

**Discussion**

- a) The amendment area is primarily vacant and undeveloped. As of data available from the California Department of Conservation as of 2018, the project area is categorized by the FMMP as primarily Prime Farmland with portions categorized as Grazing Land and Urban Area. On April 9, 2013 by Resolution No. 2013-129, the City Council adopted a policy to exempt from agricultural mitigation requirements all land area within the current City limits, including the Kiernan Business Park Specific Plan area. Therefore, no mitigation is required.
- b) There are no Williamson Act contracts on the parcels of the amendment area.
- c) There is no forest or timberland within the amendment area.
- d) See item C above.
- e) See item A, B and C above.

Resource: Pages V-4-1 to V-4-13 of the MEIR.

	Potentially Significant Impact	Less Than Significant with Mitigation	Less Than Significant Impact	No Impact
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**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 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 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"/>
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 checked="" type="checkbox"/>	<input type="checkbox"/>

**Discussion**

- a) The project would not obstruct implementation of an applicable air quality plan.
- b) The project was referred to the San Joaquin Valley Air Pollution Control District (SJAPC), who indicated no concerns with the proposed amendments. Subsequent development would have applicable mitigation measures applied with regards to construction equipment emissions and screening of potential impacts to nearby sensitive receptors (nearby commercial and residential uses).
- c) Impacts to air quality would be associated with vehicle emissions, construction activities and on-site residential sources such as landscape maintenance and barbecues. As identified in the City's General Plan MEIR, subsequent development would be consistent with assumptions for land use in the Mixed Use land use of the City's General Plan, and would be subject to all air quality policies of the City. Mitigation measures related to construction activities from the MEIR would be applied to any subsequent development.
- d) The nearest sensitive receptors are residential areas approximately 100 feet to the south on the south side of Pelandale Avenue, existing residential, commercial and office uses to the west of the project area, and a church adjacent to the amendment area to the east. Subsequent construction activities within the amendment area could potentially include the application of architectural coatings and asphalt paving material that could generate local temporary odors. The use of diesel-powered construction equipment could also generate localized odors. Any future construction activities would be mitigated as called for by the MEIR.
- e) See item D, above.

Resource: See pages V-2-1 through V-2-43 of the MEIR.

	Potentially Significant Impact	Less Than Significant with Mitigation	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, regulations or by the California Department of Fish and Game or US 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 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 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"/> |

**Discussion**

- a) The amendment area is not a biologically sensitive site as defined by Figure V-7-1 of the MEIR. The California Department of Fish and Wildlife and the US Fish and Wildlife Service were consulted in the production of the MEIR.
- b) See item A above.
- c) The site does not qualify as a federally protected wetland per Section 404 of the Clean Water Act.
- d) The amendment area is flat, primarily undeveloped land with no trees except for shade trees within the landscaped areas and parking lots of the existing businesses and churches along the Dale Road frontage. Burrowing owls are known to have nesting sites in the vicinity of the amendment area. Any subsequent development would be required to implement mitigation measures from the MEIR and the Kiernan Business Park Specific Plan Amendment No. 4 EIR that would reduce the impacts on this species to less-than-significant levels.

The Kiernan Business Park Specific Plan Amendment No. 4 EIR considered the quality of the area as foraging habitat for the Swainson's Hawk, and found that the area is of marginal quality and is unlikely to be used by the species. Therefore, no mitigation measure is necessary.

- e) There would be no conflict with any local policies or ordinance protecting biological resources. The City does not have a heritage tree ordinance.
- f) There would be no conflict with any habitat conservation plan, natural community conservation plan, or other approved local, regional or state habitat conservation plan.

Resource: See pages V-7-1 through V-7-39 of the MEIR and pages IV.G.I through IV.G.14 of the KBPSP SPA No. 4 EIR (SCH 2007062071).

	Potentially Significant Impact	Less Than Significant with Mitigation	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 type="checkbox"/> | <input checked="" 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 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"/> |

**Discussion**

- a) The project is consistent with the historical resource policies of the General Plan.
- b) The project would be consistent with the archaeological resource policies in the General Plan. The project was referred to local Native American Tribes for consultation, who indicated no concerns with the proposed amendments.
- c) The proposed amendments would not result in impact to a unique paleontological or unique geological feature. The area is flat vacant land historically utilized as grazing land or seasonal alfalfa production with no known paleontological or geological features.
- d) There are no known human remains in the amendment area.

Resource: See pages V-8-1 through V-8-34 of the MEIR.

	Potentially Significant Impact	Less Than Significant with Mitigation	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: | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" 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 type="checkbox"/> | <input checked="" type="checkbox"/> |
| ii) Strong seismic ground shaking?                                                                                                                                                                                                                                                     | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| iii) Seismic-related ground failure, including liquefaction?                                                                                                                                                                                                                           | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| iv) 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 on- or off-site 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 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"/> |

**Discussion**

- a) The amendment area is level and comprised of loam and sandy loam soils. The area is not located near a seismic zone and would not be susceptible to liquefaction or landslide.
- b) The amendment would not result in substantial soil erosion.
- c) The site is not located on a geologic unit or soil that is unstable or would become unstable as a result of subsequent development.
- d) The soils at the site are predominately loam soils and sandy loam soils, not expansive soils. The City's Urban Area General Plan MEIR found that there is low exposure to expansive soils and any exposure can be reasonably controlled by the adopted Uniform Building Code.
- e) Future development at the site will utilize the City's sewer system for the disposal of waste water.

Resource: See pages V-17-1 through V-17-14 of the MEIR.

	Potentially Significant Impact	Less Than Significant with Mitigation	Less Than Significant Impact	No Impact
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**VII. GREENHOUSE GAS EMISSIONS:** Would the project:

- |                                                                                                                                  |                          |                          |                                     |                                     |
|----------------------------------------------------------------------------------------------------------------------------------|--------------------------|--------------------------|-------------------------------------|-------------------------------------|
| a) Generate greenhouse gas emissions, either directly or indirectly, that may have a significant impact on the environment?      | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/>            |
| b) Conflict with an applicable plan, policy or regulation adopted for the purpose of reducing the emissions of greenhouse gases? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/>            | <input checked="" type="checkbox"/> |

**Discussion**

- a) Generation of greenhouse gases would predominately occur with vehicle traffic, but not at levels that would exceed those assumed by the MEIR. Previous traffic studies conducted for the site assumed business park uses would generate 9,220 daily trips. Under the General Plan's model for daily trip rates for residential uses, fewer trips would be generated if the amendment area develops at a medium-high density of residential uses up to 16 units per acre. Therefore, impacts would be less than significant.
- b) The project would not conflict with an applicable plan, policy or regulation adopted for the purpose of reducing the emissions of greenhouse gasses.

Resource: See pages V-2-38 through V-2-43 of the MEIR. Also referenced: Kiernan Business Park South FMP/IFP and Mana/Wagner Tentative Parcel Maps Initial Study/Mitigated Negative Declaration, EA/C&ED No. 2006-58, Table XV-1.

	Potentially Significant Impact	Less Than Significant with Mitigation	Less Than Significant Impact	No Impact
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**VIII. 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 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 type="checkbox"/> | <input checked="" type="checkbox"/> |

- 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?
- 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?
- 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?
- g) Impair implementation of or physically interfere with an adopted emergency response plan or emergency evacuation plan?
- h) Expose people or structures to a significant risk of loss, injury or death involving wildland fires, including where wildlands are adjacent to urbanized areas or where residences are intermixed with wildlands?

**Discussion**

- a) The proposed amendments would allow for mixed uses including medium-high density residential uses. Any impacts would be related to development of the amendment area. Upon development as a result of the amendments, subsequent projects would be subject to compliance with all applicable federal, state and local regulations pertaining to the handling, storage, disposal and transport of toxic or hazardous materials or wastes.
- b) See item A above.
- c) See item A above.
- d) The amendment area is not on the list of hazardous materials sites.
- e) The amendment area is more than six miles away from the nearest airport.
- f) The amendment area is not within the vicinity of a private airstrip.
- g) The proposed amendment would not interfere with an emergency access plan or evacuation plan. Subsequent development would be subject to review by Modesto Police and Fire regarding emergency access.
- h) No forest or wildland is in the vicinity of the amendment area.

Resource: See pages V-16-1 through V-16-15 of the MEIR.

	Potentially Significant Impact	Less Than Significant with Mitigation	Less Than Significant Impact	No Impact
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**IX. 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 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 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 which would result in flooding on- or off-site?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" 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 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 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 type="checkbox"/>	<input checked="" type="checkbox"/>
j) Inundation by seiche, tsunami, or mudflow	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

**Discussion**

- a) The proposed amendments to the General Plan land use diagram and Kiernan Business Park Specific Plan land use diagram would not cause a violation of any standards. Subsequent development that may occur as a result of the amendments would be required by the City and state regulations to comply with water quality standards and waste discharge requirements.
- b) The proposed amendments would not substantially deplete groundwater supplies or interfere substantially with groundwater recharge. Subsequent development will be required to incorporate on-site storm water handling and drainage as provided by the Kiernan Business Park Specific Plan.
- c) The amendments would not substantially alter the existing drainage pattern of the site or area in a manner which would result in substantial surface runoff, erosion or siltation. There are no streams within or in the vicinity of the amendment area. The nearest river is the Stanislaus River, approximately 2.5 miles away to the north.
- d) See item C above.
- e) Any subsequent development as a result of the land use amendments would be required to treat and retain stormwater as provided by the stormwater plans of the Kiernan Business Park Specific Plan and City standards, and would therefore not be expected to result in substantial runoff.
- f) See items B through E above.
- g) The amendment area is not located within a 100-year floodplain or a 200-year floodplain.
- h) See item G above.
- i) See item G above.
- j) The City is not subject to impacts as a result of seiche or tsunami. The City is inland approximately 90 miles from the Pacific Ocean and has no large water bodies within its jurisdiction or nearby. The amendment area is flat land and is not subject to mudslides.

Resource: See pages V-9-1 through V-9-13 of the MEIR.

	Potentially Significant Impact	Less Than Significant with Mitigation	Less Than Significant Impact	No Impact
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**X. LAND USE AND PLANNING:** Would the project:

- a) Physically divide an established community?

b) Conflict with any applicable land use plan, policy, or regulation of an agency with jurisdiction over the project (including, but not limited to the general plan, specific plan, local coastal program, or zoning ordinance) adopted for the purpose of avoiding or mitigating an environmental effect?

c) Conflict with any applicable habitat conservation plan or natural community conservation plan?

**Discussion**

- a) The proposed amendments and any subsequent development as a result of the amendments would not physically divide a community. The area is a portion of the Kiernan Business Park Specific Plan, adopted in April of 1997.
- b) Regulations of the City of Modesto and development policies of the Kiernan Business Park Specific Plan (as amended) would be applicable to any subsequent development at the site. The proposed amendment to the General Plan and Specific Plan would allow for mixed uses including medium-high density residential development within the amendment area.
- c) The amendment would not conflict with any applicable habitat conservation plans or natural community conservation plans. The City currently does not have habitat conservation plans in place.

Resource: V-20-1 through V-20-14 of the MEIR.

	Potentially Significant Impact	Less Than Significant with Mitigation	Less Than Significant Impact	No Impact
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**XI. MINERAL RESOURCES:** Would the project:

a) Result in the loss of availability of a known mineral resource that would be of value to the region and the residents of the state?

b) Result in the loss of availability of a locally-important mineral resource recovery site delineated on a local general plan, specific plan or other land use plan?

**Discussion**

- a) The amendment area is surrounded by urban uses and has no known mineral resources.
- b) The amendment area is not identified on any plan as being a location with mineral resources.

Resource: See pages V-17-1 through V-17-14 of the MEIR.

	Potentially Significant Impact	Less Than Significant with Mitigation	Less Than Significant Impact	No Impact
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**XII. 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 type="checkbox"/> | <input checked="" 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 type="checkbox"/>            | <input checked="" 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"/> |

**Discussion**

- a) The amendment area is adjacent to arterial streets and therefore subsequent development would expose the project site to traffic-related noise, but at a less than significant level with development standards of the Specific Plan and mitigation measures from the MEIR for noise control barriers applied.
- b) Subsequent development as a result of the land use amendments would not be expected to generate excessive groundborne vibration or groundborne noise levels. The allowable uses of the land use amendments would include medium-high density residential uses which would not produce groundborne noise or vibration.
- c) Subsequent development as a result of the land use amendments would generate a temporary increase in ambient noise as a result of construction processes, but at a less than significant level.
- d) See item C above.
- e) The amendment area is more than six miles away from the nearest airport.
- f) The amendment area is not within the vicinity of a private airstrip.

Resource: See pages V-3-1 through V-3-46 of the MEIR.

	Potentially Significant Impact	Less Than Significant with Mitigation	Less Than Significant Impact	No Impact
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**XIII. POPULATION AND HOUSING:** Would the project:

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"/>
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"/>
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"/>

**Discussion**

- a) The proposed amendments to the land use diagrams of the General Plan and Kiernan Business Park Specific Plan would allow for mixed uses including medium-high density residential uses at a minimum of 15 dwelling units per acre and a maximum of 16 units per acre. Subsequent development at such density would not increase population growth by a significant amount; however, such development would add much needed medium-high density dwelling units to the housing stock of the City of Modesto and contribute to its Regional Housing Needs Allocation (RHNA) of the Housing Element.
- b) The amendment area is vacant, and therefore no existing residential development would be displaced as a result of development.
- c) See item B above.

	Potentially Significant Impact	Less Than Significant with Mitigation	Less Than Significant Impact	No Impact
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**XIV. 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 significant environmental impacts, in order to maintain acceptable service ratios, response times or other performance objectives for any of the public services:	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Fire protection?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Police protection?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Schools?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Parks?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Other public facilities?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

**Discussion**

a) Subsequent development of the area as a result of the amendments to the land use diagrams of the General Plan and Kiernan Business Park Specific Plan would increase demand for police and fire services to any new residential uses, but subsequent development will be expected to pay into Community Facilities Districts (CFDs) and pay associated Capital Facilities Fees (CFF) at the time of building permit issuance, to mitigate the impact to less than significant. The police and fire departments indicated no concerns with the project. The nearest fire station is Station No. 11 at 4225 Carver Road, 1.2 miles to the east.

New residential development as a result of the amendments would increase demand for public school services, and any subsequent development would pay school impact fees at the time of building permit issuance.

Any subsequent development will be required to pay CFF for their fair share contribution towards the development and maintenance of parks in the vicinity to the site, in addition to paying into a Community Finance District (CFD) to cover the maintenance of the Specific Plan's amenities. The nearest park to the amendment area is McKinney Colony Park, approximately 0.45 miles away to the southeast.

	Potentially Significant Impact	Less Than Significant with Mitigation	Less Than Significant Impact	No Impact
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**XV. 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?

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?

**Discussion**

- a) The proposed amendments would allow for new residential development which would potentially increase the use of existing parks in the vicinity of the amendment area, but not at a level that would cause substantial physical deterioration of the facilities. Any subsequent development would be required to pay Capital Facilities Fees (CFF) for its fair share contribution towards the development of any new parks.
- b) Subsequent development may include on-site recreational facilities or parks as amenities of the development, but is not expected to have an adverse physical effect on the environment.

Resource: See pages V-11-1 through V-11-13 of the MEIR.

	Potentially Significant Impact	Less Than Significant with Mitigation	Less Than Significant Impact	No Impact
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**XVI. TRANSPORTATION/TRAFFIC:** Would the project:

a) Conflict with an applicable plan, ordinance or policy establishing measures of effectiveness for the performance of the circulation system, taking into account all modes of transportation including mass transit and non-motorized travel and relevant components of the circulation system, including but not limited to intersections, streets, highways and freeways, pedestrian and bicycle paths, and mass transit?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b) Conflict with an applicable congestion management program, including, but not limited to level of service standards and travel demand measures, or other standards 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"/>

- f) Conflict with adopted policies, plans or programs regarding public transit, bicycle, or pedestrian facilities, or otherwise decrease the performance or safety of such facilities?

**Discussion**

- a) The proposed amendments would not be in conflict with any adopted transportation plan or policy. The proposed General Plan amendment of 67 acres from Business Park uses to Mixed Uses, and associated 67-acre amendment of the Kiernan Business Park Specific Plan from business park uses to Mixed Uses 3 (MU3) would allow for the development of medium-high density residential uses at a minimum density of 15 units per acre and a maximum density of 16 units per acre within the amendment area.

Previous traffic studies conducted for business park uses considered for the amendment area assumed 9,220 daily trips for business park uses. If developed with residential uses, the amount of trips would decrease under the General Plan's model for daily vehicle trip rates for residential uses. Therefore, trip generation associated with subsequent development as a result of the amendments would be less than that assumed with the existing General Plan land use designation.

The proposed amendments would not conflict with any congestion management program. The Kiernan Business Park Specific Plan provides for a roadway system that accommodates vehicles, pedestrians and bicycles, and includes transit stops. The proposed amendment to the Circulation Plan of the Specific Plan would change Bangs Avenue from a four-lane major collector street to a two-lane collector street, its current configuration. However, with subsequent development within the amendment area, required improvements to Bangs Avenue along the project frontage including the provision landscaping and sidewalks would increase the effectiveness of the roadway.

- b) See item A above.
- c) The amendment area is not within the vicinity of an airport or private airstrip.
- d) The proposed amendments would not substantially increase hazards due to a design feature (e.g., sharp curves or dangerous intersections) or incompatible uses (e.g., farm equipment).
- e) The Fire Department reviewed the proposed amendment and did not identify any issues with emergency access.

Resources: See pages V-1-1 through V-1-46 of the MEIR. Also referenced: Kiernan Business Park South FMP/IFP and Mana/Wagner Tentative Parcel Maps Initial Study/Mitigated Negative Declaration, EA/C&ED No. 2006-58, Table XV-1.

	Potentially Significant Impact	Less Than Significant with Mitigation	Less Than Significant Impact	No Impact
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**XVII. 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 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 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"/>

**Discussion**

- a) The amendments would not exceed treatment requirements of an applicable water quality control board.
- b) The amendment would not result in the construction of new water or wastewater treatment facilities. The proposal was referred to the City’s Land Development Engineering Department and the Public Works Department, who indicated no concerns with the amendments.
- c) Subsequent development as a result of the proposed amendments will provide for storm water handling and treatment with the installation of new underground storm drain lines and onsite or offsite treatment and drainage facilities as provided in the Kiernan Business Park Specific Plan. Projects would also comply with the City’s Stormwater Management Program, Guidance Manual for New Development.
- d) There are sufficient water supplies to serve the amendment area.
- e) The City has sufficient wastewater capacity to serve the amendment area.
- f) Solid waste service is handled by the Gilton Solid Waste Management company, who indicated ability to serve the area at the time of the Specific Plan’s adoption.
- g) Subsequent development will be required to comply with statues and regulations related to solid waste.

	Potentially Significant Impact	Less Than Significant with Mitigation	Less Than Significant Impact	No Impact
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**XVIII. 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, substantially 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"/> |
| 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 checked="" type="checkbox"/> | <input type="checkbox"/> |

c) Does the project have environmental effects which will cause substantial adverse effects on human beings, either directly or indirectly?

**Discussion**

a) As discussed in Section IV: Biological Resources, development at the site as a result of the land use amendments would not substantially impact wildlife habitat with mitigation measures applied.

b) As discussed in Section III: Air Quality and Section VII: Greenhouse Gases, the proposed amendments would result in the development of mixed uses including medium-high density residential uses within the 67-acre amendment area, to a minimum density of 15 units per acre and a maximum of 16 units per acre. Generation of greenhouse gases would predominately occur with vehicle traffic, but not at levels that would exceed those assumed by the MEIR or the amounts assumed by previously-conducted traffic study of the amendment area for business park uses. Potential impacts to air quality would be due to construction practices, but at levels less than significant with the application of mitigation measures from the MEIR and the KBPSP SPA No. 4 EIR.

As discussed in Section XIV: Public Services, above, new residential development as a result of the amendments would increase demand for public school services and parks, but not at a level that would cause substantial impacts to those facilities. Any subsequent development would pay school impact fees, and Capital Facilities Fees (CFF) for their fair share contribution towards the development and maintenance of parks in the vicinity to the site.

c) This document identifies that the proposed amendments would have some cumulative environmental impact, but not at significant levels with the application of mitigation measures upon the onset of development. Therefore, impacts that may result from the proposed amendments to the General Plan and Kiernan Business Specific Plan are less than significant.



**MODESTO CITY COUNCIL  
RESOLUTION NO. 2022-196**

**RESOLUTION ADOPTING SEWER SERVICE RATES, EFFECTIVE JULY 1, 2022, FOR FISCAL YEARS 2022-23 THROUGH 2026-27 IN ACCORDANCE WITH PROPOSITION 218**

WHEREAS, the City's sewer utility is a self-supporting enterprise funded by customer revenues, and

WHEREAS, the City engaged Bartle Wells Associates (BWA) to conduct a comprehensive review of the City's current sewer rates and fees in accordance with Proposition 218, and

WHEREAS, BWA prepared a report dated November 19, 2021 entitled City of Modesto Sewer Rate and Fee Study (the "Report"), containing analyses and recommendations for adjusting the City's sewer rates and charges, and

WHEREAS, a copy of the Report is on file with the City Clerk, and

WHEREAS, the report concludes that the revenues generated under the existing sewer service rates and fees are insufficient to meet the revenue requirements for fiscal year 2022-23 and subsequent years, and

WHEREAS, the Report demonstrates that updated sewer service rates and fees established pursuant to this resolution:

- Recover the reasonable estimated cost of the services for which the rates are charged
- Provide that such costs are allocated among City sewer customers so as to bear a fair and reasonable relationship to customers burdens' on and benefits from City sewer service

- Ensure that charges for sewer services do not exceed the proportionate cost of providing sewer services attributable to each parcel
- Secure the financial stability of the sewer system
- Ensure high quality service
- Provide a sound financial plan that will assist in funding capital improvement projects necessary to serve sewer customers

WHEREAS, the updated sewer service rates and fees established pursuant to this resolution are not levied for general revenue purposes, and

WHEREAS, the City mailed a notice of the public hearing, and a notice of oral and written protest procedures against the proposed rate increases to all affected property owners and ratepayers in compliance with California Constitution Article XIID, Section 6, at least forty-five (45) days in advance of the public hearing at which this resolution was considered, and

WHEREAS, on April 12, 2022 the City Council duly held the public hearing and at its conclusion the City Clerk tabulated the number of written protests received and reported that there was not a majority protest of the proposed sewer service rates and fees by property owners, ratepayers or their authorized representatives, and

WHEREAS, the City Council desires to establish new sewer service rates and fees as shown in **Exhibit A**, which is **attached** to this Resolution and incorporated by reference herein.

NOW, THEREFORE BE IT RESOLVED by the Council of the City of Modesto that the above recitals are true and correct, and incorporated herein.


BE IT FURTHER RESOLVED that the Council of the City of Modesto hereby approves the Report and adopts updated sewer service rates and fees as shown in **Exhibit A, attached** hereto and incorporated herein, effective July 1, 2022.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 12th day of April, 2022, by Councilmember Kenoyer, who moved its adoption, which motion being duly seconded by Mayor Zwahlen, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Escutia-Braaton, Kenoyer,  
Wright, Mayor Zwahlen

NOES: Councilmembers: Madrigal, Ricci

ABSENT: Councilmembers: Zoslocki

ATTEST:   
DANA SANCHEZ, Interim City Clerk

(SEAL)

APPROVED AS TO FORM:

BY:   
JOSE M. SANCHEZ, City Attorney

## EXHIBIT A

<b>Proposed Sewer Rates</b>	<b>FY 21-22</b>	<b>FY 22-23</b>	<b>FY 23-24</b>	<b>FY 24-25</b>	<b>FY 25-26</b>	<b>FY 26-27</b>
	<i>Existing</i>	<i>Proposed</i>	<i>Proposed</i>	<i>Proposed</i>	<i>Proposed</i>	<i>Proposed</i>
		<i>7/1/2022</i>	<i>7/1/2023</i>	<i>7/1/2024</i>	<i>7/1/2025</i>	<i>7/1/2026</i>
<b>Monthly Account Charge (\$/Account)</b>	\$4.68	\$4.86	\$5.04	\$5.22	\$5.41	\$5.60
<b>Residential Rates (\$/Dwelling Unit)</b>						
Single Family Residential, Mobile Home on a lot	\$37.10	\$38.31	\$39.65	\$41.04	\$42.48	\$43.97
Multiple Family (2-4 Dwelling Units), one additional Dwelling Unit or Mobile Home on a lot	\$28.60	\$29.11	\$30.13	\$31.18	\$32.27	\$33.40
Apartments (5 or more Dwelling Units), Mobile Home Space in a Mobile Home Park	\$25.33	\$25.97	\$26.88	\$27.82	\$28.79	\$29.80
<b>Commercial Quantity Charge (\$/100 cubic feet)</b>						
Group 1-BOD + TSS is 400 mg/l or less	\$3.69	\$3.85	\$3.98	\$4.12	\$4.26	\$4.41
Group 2-BOD + TSS is 401 mg/l to 900 mg/l	\$4.89	\$5.05	\$5.23	\$5.41	\$5.60	\$5.80
Group 3-BOD + TSS is 901 mg/l to 1,400 mg/l	\$6.08	\$6.29	\$6.51	\$6.74	\$6.98	\$7.22
Group 4-BOD + TSS is 1,401 mg/l or more	\$7.52	\$7.79	\$8.06	\$8.34	\$8.63	\$8.93
<b>Industrial Charges (these three components are additive)</b>						
Flow Charge (\$/Million gallons)	\$3,657	\$3,739.76	\$3,870.65	\$4,006.12	\$4,146.33	\$4,291.45
BOD Charge (\$/1,000 lbs)	\$256	\$278.79	\$288.55	\$298.65	\$309.10	\$319.92
TSS Charge (\$/1,000 lbs)	\$511	\$519.81	\$538.00	\$556.83	\$576.32	\$596.49
<b>Septage Quantity Charge</b>						
Flow charge per 1,000 gallons	\$67.00	\$69.35	\$71.78	\$74.29	\$76.89	\$79.58
<b>CanSeg Line Charges (these three components are additive)</b>						
Flow Charge (\$/Million Gallons)	\$3,319.00	\$2,852.34	\$2,923.65	\$2,996.74	\$3,071.66	\$3,148.45
BOD Charge (\$/1,000 lbs)	\$1.73	\$19.01	\$19.49	\$19.98	\$20.48	\$20.99
TSS Charge (\$/1,000 lbs)	\$5.00	\$37.46	\$38.40	\$39.36	\$40.34	\$41.35

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2022-197**

**RESOLUTION AMENDING THE POSITION ALLOCATION FOR FISCAL  
YEAR 2021-22 AS ADOPTED IN THE OPERATING BUDGET**

WHEREAS, a Position Allocation for the City of Modesto was adopted by Modesto City Council on June 23, 2021, as part of the Annual Budget of the City of Modesto for Fiscal Year 2021-22, and

WHEREAS, classification studies are conducted to ensure that a classification system is equitable and consistent within an organization and that positions are correctly classified, and

WHEREAS, per Personnel Administrative Order 2.2-87-12, a classification study may be conducted in response to a reclassification request, to develop/revise a classification specification, or to assist in a reorganization, and

WHEREAS, classification studies were conducted by Human Resources to determine appropriate classifications, and

WHEREAS, position changes will be effective the first day of the pay period upon adoption, unless otherwise noted.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves amending the Position Allocation and the Fiscal Year 2021-22 Operating Budget for various departments as follows:

1. Add two (2) Homeless Outreach Specialists in the HUD ESG Outreach Division (\*19206) of the Modesto Police Department.


\*Clerical Error

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 12th day of April, 2022, by Councilmember Wright, who moved its adoption, which motion being duly seconded by Councilmember Madrigal, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Escutia-Braaton, Kenoyer, Madrigal, Ricci,  
Wright, Mayor Zwahlen

NOES: Councilmembers: None

ABSENT: Councilmembers: Zoslocki

ATTEST:   
DANA SANCHEZ, Interim City Clerk

(SEAL)

APPROVED AS TO FORM:

BY:   
JOSE M. SANCHEZ, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2022-198**

**RESOLUTION APPROVING A FIRST AMENDMENT TO THE COUNTY/CITY AGENCY MEMORANDUM OF UNDERSTANDING BETWEEN THE COUNTY OF STANISLAUS AND THE MODESTO POLICE DEPARTMENT, FOR THE COUNTY TO PROVIDE TWO MENTAL HEALTH CLINICIANS AND/OR BEHAVIORAL HEALTH SPECIALISTS TO RIDE WITH CRISIS INTERVENTION TRAINED POLICE OFFICERS AND RESPOND TO MENTAL HEALTH CALLS FOR SERVICE IN THE CITY OF MODESTO, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE AGREEMENT**

WHEREAS, in 2020, the Modesto Police Department (MPD), identified approximately 19,000 calls for service involving quality of life related crimes and calls for service containing behavioral health related keywords; and

WHEREAS, of the 19,000 calls for service, nearly 7,000 (4%) contained keywords indicating a potential officer safety/public safety concern associated with the call; and

WHEREAS, MPD has maintained a Memorandum of Understanding (MOU) with the County of Stanislaus through its department of Behavioral Health and Recovery Services (BHRS) for the provision of a co-responder model called the Mobile Crisis Emergency Response Team (MCERT) where behavioral health professionals would ride with crisis intervention trained MPD officers and respond to behavioral health calls for service together; and

WHEREAS, this model was used until approximately 2017 when various staffing and funding issues halted its continuation: and

WHEREAS, MPD has maintained an MOU with BHRS to provide crisis response support in limited situations: and

WHEREAS, MPD seeks to amend the existing MOU with BHRS to allow for the reinstatement of this important partnership with the City reimbursing the County for the costs of two full-time Mental Health Clinicians and/or Behavioral Health Specialists in an amount not to exceed \$390,303 and extend the term of the existing MOU to June 30, 2023.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves a first amendment to the County/City agency Memorandum of Understanding.

BE IT FURTHER RESOLVED, that the City Manager, or his designee, is hereby authorized to execute the MOU, in a form approved by the City Attorney.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 12th day of April, 2022, by Councilmember Wright, who moved its adoption, which motion being duly seconded by Councilmember Madrigal, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Escutia-Braaton, Kenoyer, Madrigal, Ricci, Wright, Mayor Zwahlen

NOES: Councilmembers: None

ABSENT: Councilmembers: Zoslocki

ATTEST:   
DANA SANCHEZ, Interim City Clerk

(SEAL)

APPROVED AS TO FORM:

BY:   
JOSE M. SANCHEZ, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2022-199**

**RESOLUTION ACCEPTING THE RESIGNATION OF WILL CREW FROM THE  
CITY OF MODESTO LANDMARK PRESERVATION COMMISSION**

WHEREAS, Will Crew was appointed to serve as a member of the Landmark Preservation Commission (LPC) on March 5, 2019; and

WHEREAS, Will Crew has tendered his resignation from the LPC.

NOW, THEREFORE, BE IT RESOLVED that the resignation of Will Crew from the LPC be, and hereby is accepted with regret.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 3rd day of May, 2022, by Councilmember Madrigal, who moved its adoption, which motion being duly seconded by Councilmember Kenoyer, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Kenoyer, Madrigal, Ricci,  
Wright, Mayor Zwahlen

NOES: Councilmembers: None

ABSENT: Councilmembers: Escutia-Braaton

ATTEST:

  
DIANE NAYARES-PEREZ, CMC,  
City Clerk

(SEAL)

APPROVED AS TO FORM:

BY:   
JOSE M. SANCHEZ, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2022-200**

**RESOLUTION CONTINUING TO AUTHORIZE REMOTE  
TELECONFERENCE MEETINGS OF THE CITY OF MODESTO PURSUANT  
TO ASSEMBLY BILL 361**

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

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

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

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

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

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

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

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

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

WHEREAS, on September 28, 2021, the City Council adopted Resolution No. 2021-370 authorizing remote teleconference meetings pursuant to AB361 (Government Code section 54953(e)); and

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

WHEREAS, the City Council has considered the circumstances of the Governor’s state of emergency proclamation pursuant to Government Code section 8625, which remains active; and

WHEREAS, on March 8, 2022, the County of Stanislaus Board of Supervisors terminated the Declaration of a Local Health Emergency that was issued on March 11, 2020; and

WHEREAS, notwithstanding the Local Health Emergency termination, on February 28, 2022 the Stanislaus County Public Health Services Agency issued guidance strongly recommending community members to maintain social distancing measures by staying six (6) feet apart; and

WHEREAS, the City Council, acting for itself and for the benefit of all of the City's commissions, committees, and other bodies (collectively referred to as the "Legislative Bodies"), does hereby find that the Legislative Bodies shall continue to conduct their meetings without compliance with Government Code section 54953(b)(3), as authorized by Government Code section 54953(e), and that the Legislative Bodies shall continue to comply with the requirements to provide the public with access to the meetings as prescribed in Government Code section 54953(e)(2) as a consequence of the ongoing state of emergency and the continued social distancing measures required by local officials.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF MODESTO DOES HEREBY RESOLVE AS FOLLOWS:

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

Section 2. Consideration of State of Emergency. The City Council has considered the conditions of the state of emergency declared pursuant to Government Code section 8625, and determined that such emergency conditions continue to be present in the City.

Section 3. Continued Social Distancing Measures by State and Local Officials.

The City Council finds that the County of Stanislaus Health Officer's recommended measures to promote social distancing remain in effect.


Section 4. Remote Teleconference Meetings. The City Council finds that the conditions continue to exist pursuant to Government Code section 54953(e)(3) to allow Legislative Bodies to use teleconferencing to hold public meetings in accordance with Government Code section 54953(e)(2) to ensure members of the public have continued access to safely observe and participate in local government meetings.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 3rd day of May, 2022, by Councilmember Kenoyer, who moved its adoption, which motion being duly seconded by Councilmember Wright, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Kenoyer, Madrigal, Ricci,  
Wright, Mayor Zwahlen

NOES: Councilmembers: None

ABSENT: Councilmembers: Escutia-Braaton

ATTEST:   
DIANE NAYARES-PEREZ, CMC,  
City Clerk

(SEAL)

APPROVED AS TO FORM:

BY:   
JOSE M. SANCHEZ, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2022-201**

**RESOLUTION APPROVING A SECOND AMENDMENT TO THE SECOND  
RESTATED LEGAL SERVICES AGREEMENT WITH ARATA, SWINGLE,  
VAN EGMOND & HEITLINGER IN AN AMOUNT NOT TO EXCEED \$250,000,  
FOR A TOTAL NOT TO EXCEED AMOUNT OF \$750,000 TO CONTINUE  
REPRESENTING THE CITY OF MODESTO IN TORT CASES, AND  
AUTHORIZING THE CITY MANAGER OR HIS DESIGNEE, TO EXECUTE  
THE AGREEMENT**

WHEREAS, the City Attorney's Office is in need of outside counsel services; and

WHEREAS, on June 24, 2014, by Resolution No. 2014-241, Council approved an agreement with Arata, Swingle, Van Egmond & Goodwin, to represent the City in the following types of cases: tort, trip and fall, sidewalk, road and other similar cases for a total agreement amount not to exceed \$790,000, including amendments; and

WHEREAS, on December 12, 2017, by Resolution No. 2017-500, Council approved a Restated Legal Services Agreement with Arata, Swingle, Van Egmond & Goodwin for the same services, for a total agreement amount not to exceed \$650,000, including amendments; and

WHEREAS, on January 28, 2020, by Resolution 2020-029, Council approved a Second Restated Legal Services Agreement with Arata, in the amount of \$240,000 for continued representation; and

WHEREAS, on March 9, 2021, by Resolution No. 2021-085, Council approved a First Amendment to Arata's Legal Services Agreement, in the amount of \$260,000 for a total agreement amount not to exceed \$500,000 for continued services; and

WHEREAS, the City Attorney's office has drafted a Second Amendment to the Second Restated Legal Services agreement with Arata, Swingle, Van Egmond and Heitlinger for continued representation.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves a Second Amendment to the Second Restated Legal Services Agreement with Arata, Swingle, Van Egmond & Heitlinger, in an amount not to exceed \$250,000, for a total not to exceed amount of \$750,000 to continue representing the City of Modesto in tort matters, as provided in **Exhibit A attached** hereto and incorporated herein, and further authorizes the City Attorney to execute such agreement in a form substantially similar to **Exhibit A**.

BE IT FURTHER RESOLVED, that the City Manager or his designee, are hereby authorized to execute the agreement, in a form approved by the City Attorney.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 3rd day of May, 2022, by Councilmember Kenoyer, who moved its adoption, which motion being duly seconded by Councilmember Wright, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Kenoyer, Madrigal, Ricci,  
Wright, Mayor Zwahlen

NOES: Councilmembers: None

ABSENT: Councilmembers: Escutia-Braaton

ATTEST:   
DIANE NAYARÉS-PÉREZ, CMC,  
City Clerk

(SEAL)

APPROVED AS TO FORM:

BY:   
JOSE M. SANCHEZ, City Attorney

## SECOND AMENDMENT TO THE SECOND RESTATED LEGAL SERVICES AGREEMENT

This Second Amendment to the Second Restated Legal Services (this “**Second Amendment**”), is made and entered into on the 3<sup>rd</sup> day of May 2022 (“**Effective Date**”), by and between the **CITY OF MODESTO**, a California Municipal Corporation (“**City**”), and **ARATA, SWINGLE, VAN EGMOND & HEITLINGER**, a Professional Corporation (“**Attorney**”), located at 1207 I Street, Modesto, California 95354. City and Attorney are hereinafter collectively referred to as the “**Parties**,” and singularly as “**Party**”.

### RECITALS

**WHEREAS**, City and Attorney entered into a Second Restated Legal Services Agreement (“**Agreement**”) to provide legal advice, representation and assistance to City in defense of tort claims, as assigned; and

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

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

**WHEREAS**, City and Attorney desire to amend the Second Restated Agreement for further service by increasing the previously approved amount of fees from \$500,000 to \$750,000.

**NOW, THEREFORE**, it is hereby agreed that the Second Restated Legal Services Agreement between the City of Modesto and Arata, Swingle, Van Egmond and Heitlinger dated January 28, 2020 authorized by Resolution No.2020-029, and amended by Resolution No. 2021-085 is amended as follows:

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

“The total of all fees paid to Attorney for the performance of all services set forth in Section 1 (hereafter the “**Service**”), and for all authorized Reimbursable Expenses (as defined hereafter), shall not exceed a total sum of seven hundred and fifty thousand dollars (\$750,000).”

2. **Entire Agreement.** The parties to this Second Amendment understand and agree that except as stated herein all terms and conditions of the original Agreement, dated January 28, 2020, remain in full force and effect to the extent they are not in conflict with this Second Amendment. This document, including all exhibits, contain the entire amendment to the Agreement between the Parties and supersedes whatever oral or written understanding they may have had prior to the execution of this Second Amendment. No alteration to the terms of this Second Amendment shall be valid unless approved in writing by Attorney and by City, in accordance with applicable provision of the Modesto City Code.

3. **Authority.** The person signing this Second Amendment for Attorney hereby represents and warrants that he/she is fully authorized to sign this Second Amendment on behalf of Attorney and to bind Attorney to the performance of its obligations hereunder.

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

**CITY OF MODESTO,**  
A Municipal Corporation

By: \_\_\_\_\_

Print name: Joseph P. Lopez

Title: City Manager

**APPROVED TO AS FORM:**

\_\_\_\_\_  
Jose M. Sanchez, City Attorney

**ATTEST:**

\_\_\_\_\_  
Diane Nayares-Perez, CMC City Clerk

\_\_\_\_\_  
Joe Rodriguez, Risk Manager

**[Signatures Continued on Next Page.]**

**ATTORNEY:**  
**ARATA, SWINGLE, VAN EGMOND & HEITLINGER**  
a Professional Corporation

\_\_\_\_\_

\_\_\_\_\_

Federal I.D. No.

\_\_\_\_\_

State I.D. No.

\_\_\_\_\_

City of Modesto Business Op. Tax Cert. No.

TYPE OF BUSINESS ENTITY (*check one*):

- \_\_\_\_\_ Individual/Sole Proprietor
- \_\_\_\_\_ Partnership
- \_\_\_\_\_ Corporation
- \_\_\_\_\_ Limited Liability Company
- \_\_\_\_\_ Other (*please specify:* \_\_\_\_\_)

\_\_\_\_\_

**Signature of Authorized Person**

\_\_\_\_\_

Title

\_\_\_\_\_

Additional Signature (*if required*)

\_\_\_\_\_

Title

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2022-202**

**RESOLUTION APPROVING A THIRD AMENDMENT TO THE LEGAL SERVICES AGREEMENT WITH BARTKIEWICZ, KRONICK & SHANAHAN, P.C. IN THE AMOUNT OF \$75,000, FOR A TOTAL AMOUNT NOT TO EXCEED \$217,300, FOR CONTINUED REPRESENTATION AND AUTHORIZING THE CITY MANAGER OR HIS DESIGNEE, TO EXECUTE THE AGREEMENT**

WHEREAS, on December 6, 2016, by Resolution No. 2016-479, Council approved an agreement with Bartkiewicz, Kronick & Shanahan, P.C. (BKS) to provide legal services for the State Water Resources Control Board Substitute Environmental Document, in the amount of \$57,300; and

WHEREAS, on July 11, 2017, by Resolution No. 2017-282, Council approved a First Amendment to the Legal Services Agreement with BKS for continued services in an amount not to exceed \$35,000; and

WHEREAS, on August 13, 2019, by Resolution No. 2019-367, Council approved a Second Amendment for continued services for a total agreement amount not to exceed \$142,300; and

WHEREAS, the City is currently seeking to overturn the State Water Resources Control Board's action in approving the Bay-Delta Plan; and

WHEREAS, this is the suit challenging the State Water Board's approval of regulatory changes that require that about 40% of the flow of the Tuolumne River remain in the stream for fish; the regulations are known locally as the "water grab"; and

WHEREAS, the City Attorney's office has drafted a Third Amendment to the Legal Services agreement with Bartkiewicz, Kronick & Shanahan, P.C., to continue services.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves a Third Amendment to the Legal Services Agreement with Bartkiewicz, Kronick & Shanahan, P.C., in the amount of \$75,000, for a total amount not to exceed \$217,300 to continued representation, as provided in Exhibit A attached hereto and incorporated herein, and further authorizes the City Attorney to execute such agreement in a form substantially similar to Exhibit A.

BE IT FURTHER RESOLVED that the City Manager or his designee, are hereby authorized to execute the amendment, in a form approved by the City Attorney.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 3rd day of May, 2022, by Councilmember Kenoyer, who moved its adoption, which motion being duly seconded by Councilmember Wright, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Kenoyer, Madrigal, Ricci,  
Wright, Mayor Zwahlen

NOES: Councilmembers: None

ABSENT: Councilmembers: Escutia-Braaton

ATTEST:   
DIANE NAYARES-PEREZ, CMC,  
City Clerk

(SEAL)

APPROVED AS TO FORM:

BY:   
JOSE M. SANCHEZ, City Attorney

## THIRD AMENDMENT TO LEGAL SERVICES AGREEMENT

This Third Amendment to the Legal Services (this “**Third Amendment**”), is made and entered into on this 3<sup>rd</sup> day of May 2022 (“**Effective Date**”), by and between the **CITY OF MODESTO**, a California Municipal Corporation (“**City**”), and **BARTKIEWICZ, KRONICK & SHANAHAN, P.C.** (“**Attorney**”), located at 1011 22<sup>nd</sup> Street, Sacramento, California 95816. City and Attorney are hereinafter collectively referred to as the “**Parties**,” and singularly as “**Party**”.

### RECITALS

**WHEREAS**, City and Attorney entered into a Legal Services Agreement (“**Agreement**”) to provide legal services for the State Water Resources Control Board Substitute Environmental Document; and

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

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

**WHEREAS**, City and Attorney desire to amend the Agreement for further service by increasing the previously approved amount of fees from 142,300 to \$217,300.

**NOW, THEREFORE**, it is hereby agreed that the Legal Services Agreement between the City of Modesto and Bartkiewicz, Kronick & Shanahan, P.C. dated December 6, 2016, and amended by Resolutions No. 2017-282 and 2019-367 is amended as follows:

1. Paragraph No. 3 “Compensation” is amended to state as follows:

“Consultant Services specifies the sum of **TWO HUNDRED SEVENTEEN THOUSAND AND THREE HUNDRED DOLLARS (\$217,300)** as the total compensation, Consultant agrees to accept for performing all services and furnishing all staffing and materials for the project as well as performance by Consultant of all of its duties and obligations required in the Original Agreement.”

2. **Entire Agreement.** The parties to this Third Amendment understand and agree that except as stated herein all terms and conditions of the original Agreement, dated December 6, 2016, remain in full force and effect to the extent they are not in conflict with this Third Amendment. This document, including all exhibits, contain the entire amendment to the Agreement between the Parties and supersedes whatever oral or written understanding they may have had prior to the execution of this Third Amendment. No alteration to the terms of this Third Amendment shall be valid unless approved in writing by Attorney and by City, in accordance with applicable provision of the Modesto City Code.

3. **Authority.** The person signing this Third Amendment for Attorney hereby represents and warrants that he/she is fully authorized to sign this Third Amendment on behalf of Attorney and to bind Attorney to the performance of its obligations hereunder.

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

**CITY OF MODESTO,**  
A Municipal Corporation

By: \_\_\_\_\_

Print name: Joseph P. Lopez

Title: City Manager

**APPROVED TO AS FORM:**

\_\_\_\_\_  
Jose M. Sanchez, City Attorney

**ATTEST:**

\_\_\_\_\_  
Diane Nayares-Perez, CMC City Clerk

\_\_\_\_\_  
Joe Rodriguez, Risk Manager

**[Signatures Continued on Next Page.]**

**ATTORNEY:  
BARTKIEWICZ, KRONICK & SHANAHAN, P.C.**

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Federal I.D. No.

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State I.D. No.

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City of Modesto Business Op. Tax Cert. No.

TYPE OF BUSINESS ENTITY (*check one*):

- Individual/Sole Proprietor
- Partnership
- Corporation
- Limited Liability Company
- Other (*please specify:* \_\_\_\_\_)

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**Signature of Authorized Person**

---

Title

---

Additional Signature (*if required*)

---

Title

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2022-203**

**RESOLUTION APPROVING A SECOND AMENDMENT TO THE JOINT EXERCISE OF POWERS AGREEMENT BETWEEN THE CITY OF MODESTO AND THE COUNTY OF STANISLAUS FOR EMERGENCY DISPATCH SERVICES AMENDING SECTIONS RELATED TO THE COMMISSION MEMBERS AND THE DISPATCH ADVISORY BOARD AND TECHNICAL ADVISORY COMMITTEE, AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE TO EXECUTE THE AMENDMENT AND APPOINTING THE MODESTO FIRE CHIEF AS THE CITY'S ADDITIONAL MEMBER, AND MODESTO POLICE CHIEF AS THEIR ALTERNATE, TO THE COMMISSION**

WHEREAS, the City of Modesto and the County of Stanislaus entered into a Joint Exercise of Powers Agreement (“JPA Agreement”) for Emergency Dispatch Services beginning September 1, 1999, and

WHEREAS, the agency is governed by a seven (7) member Consolidated Emergency Dispatch Agency Commission (“Commission”) consisting of members of both Parties of the Agreement, as noted in Section 8.1 of the JPA Agreement, and

WHEREAS, Section 10.1.7 of the current JPA Agreement contains references to the formation of, and responsibility of, the Dispatch Advisory Board (“DAB”) and Technical Advisory Committee, and

WHEREAS, membership of the DAB consists of the following: Modesto Fire Chief, Modesto Police Chief, Stanislaus County Fire Warden, the Stanislaus County Sheriff, and other members of the technical and operational teams as alternates, and

WHEREAS, according to Section 8.1.5 of the JPA Agreement, “Two (2) members of the Dispatch Advisory Board, one from each agency,” shall serve on the seven (7) member Commission, and

WHEREAS, Public Safety Department heads, and elected officials such as the County Sheriff, are part of the emergency response system, and in times of emergency, it

is necessary for those in these roles to be available at a moment's notice to respond to an emergency event, and

WHEREAS, during a public safety emergency, these individuals are oftentimes required during an emergency response activation, and

WHEREAS, the DAB members are currently bound by the Ralph M. Brown Act and are prohibited from meeting (with a quorum of three (3) or more present) on items related to dispatch services without proper notice of a public meeting, and

WHEREAS, due to the role that the members are filling on the Advisory Board, there are circumstances that would prohibit the members from acting in their full capacity as public safety-first responders to an emergency where all public safety officials need to be present, and

WHEREAS, the JPA Agreement also currently refers to two (2) members of the DAB acting as members of the Commission, and

WHEREAS, it is recommended to amend the JPA Agreement, updating Section 8.1.5 as follows:

“Two (2) additional members. The additional members will be appointed as follows: (1) the Modesto City Council shall select one additional member and an alternate; and (2) the County's Board of Supervisors shall select one additional member and an alternate,” and

WHEREAS, the additional members and their alternates will serve at the pleasure of the appointing bodies, and

WHEREAS, by amending the current JPA Agreement, the public safety officials will be able to respond to an emergency, and where they will collaborate in the same space to resolve the public safety emergency.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves a Second Amendment to the Joint Exercise of Powers Agreement between the City of Modesto and the County of Stanislaus for Emergency Dispatch Services, amending sections related to the Commission Members and the Dispatch Advisory Board and Technical Advisory Committee, authorizing the City Manager to execute the Amendment, and

BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to execute the amendment, in a form approved by the City Attorney

BE IT FURTHER RESOLVED by the Council of the City of Modesto that the Modesto Fire Chief is hereby appointed as the City's additional member to the Consolidated Emergency Dispatch Agency Commission, and Modesto Police Chief as their Alternate, pursuant to the Second Amendment to the Joint Exercise of Powers Agreement between the City of Modesto and the County of Stanislaus for Emergency Dispatch Services.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 3rd day of May, 2022, by Councilmember Kenoyer, who moved its adoption, which motion being duly seconded by Councilmember Wright, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Kenoyer, Madrigal, Ricci,  
Wright, Mayor Zwahlen

NOES: Councilmembers: None

ABSENT: Councilmembers: Escutia-Braaton

ATTEST:   
DIANE NAYARES-PEREZ, CMC,  
City Clerk

(SEAL)

APPROVED AS TO FORM:

BY:   
JOSE M. SANCHEZ, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2022-204**

**RESOLUTION ACCEPTING THE TRANSPORTATION DEVELOPMENT ACT  
TRIENNIAL PERFORMANCE AUDIT CONDUCTED BY THE STANISLAUS  
COUNCIL OF GOVERNMENTS FOR TRANSIT OPERATIONS AND CAPITAL  
EXPENSES**

WHEREAS, the Transportation Development Act (TDA) of 1971 is a funding mechanism administered by the California Department of Transportation (Caltrans) through Regional Transportation Planning Agencies (RTPA), and

WHEREAS, in Stanislaus County, the RTPA is Stanislaus Council of Governments (StanCOG), and

WHEREAS, as the RTPA, StanCOG programs and administers TDA funds to the local jurisdictions for transit and non-transit projects, and

WHEREAS, TDA funds are expended for StanCOG administration and planning of public transportation, distributed to local jurisdictions for operations of public transit systems, non-motorized projects, and streets and roads, and

WHEREAS, the Public Utilities Code requires all recipients of TDA funding to complete an independent audit on a three-year cycle in order to maintain TDA funding eligibility, and

WHEREAS, each transit operator in the County, including the City, is also subject to these triennial independent audits, and

WHEREAS, in 2021, StanCOG selected Moore & Associates, Inc., to prepare Triennial Performance Audits of itself as the RTPA and the four transit operators to which it allocates TDA funding, and

WHEREAS, the TDA audit report summarizes key findings and recommendations developed during the TPA of the City's public transit program for the period Fiscal Year (FY) 2018/19 through FY 2020/21, and

WHEREAS, On July 1, 2021, (Resolution No. 2021-06) the City of Modesto Transit Division joined with Stanislaus County Regional Transit to form a stand-alone joint power authority (JPA) known as Stanislaus Regional Transit Authority (StanRTA). With the creation of StanRTA, the City of Modesto no longer operates these transit services, and

WHEREAS, based on discussions with City staff, analysis of program performance, and an audit of program compliance and function, the audit team presented no compliance findings, and

WHEREAS, Moore & Associates identified two functional findings, that the City reported the full-time equivalents on the State Controller Reports differently than the FTE data calculated using the TDA definition, and incorrect performance data was reported on the State Controller Report in 2020/2021. StanRTA is aware of the functional findings in the report, but a plan to remedy these findings has yet to be implemented due to the formation of the agency. While the findings do not affect TDA compliance, they were significant enough to be addressed within this audit.

NOW, THEREFORE BE IT RESOLVED, by the Council of the City of Modesto that it hereby accepts the Transportation Development Act Triennial Performance Audit conducted by the Stanislaus Council of Governments for transit operations and capital expenses.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 3rd day of May, 2022, by Councilmember Kenoyer, who moved its adoption, which motion being duly seconded by Councilmember Wright, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Kenoyer, Madrigal, Ricci,  
Wright, Mayor Zwahlen

NOES: Councilmembers: None

ABSENT: Councilmembers: Escutia-Braaton

ATTEST:   
DIANE NAYARES-PEREZ, CMC,  
City Clerk

(SEAL)

APPROVED AS TO FORM:

BY:   
JOSE M. SANCHEZ, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2022-205**

**RESOLUTION APPROVING A RENEWAL AGREEMENT WITH ZOLL DATA SYSTEMS, INC. FOR HOSTED SERVER SERVICES FOR BOTH EPCR AND FIRERMS RECORDS MANAGEMENT AND REPORTING SOFTWARE, IN AN ANNUAL ESTIMATED AMOUNT OF \$77,124, WITH A ONE-TIME EPCR IMPLEMENTATION FEE OF \$7,500, FOR A TOTAL THREE-YEAR AGREEMENT NOT TO EXCEED \$238,872 AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE AGREEMENT**

WHEREAS, the Modesto Fire Department has been utilizing ZOLL's FireRMS as the department's records management system for more than 15 years; and

WHEREAS, during those years, the servers that store and transmit the data were owned and hosted by the City of Modesto IT Department, and then transitioned to the Stanislaus County's IT Department (SBT), which not only created time delays that hindered the department's ability to comply with mandated reporting requirements, but also created expenses by both server owner and ZOLL for time and support during technical issues; and

WHEREAS, in January 2019, by Resolution 2019-06, Council approved an agreement to host ZOLL software servers directly with the Modesto Fire Department; and

WHEREAS, since then, MFD has been able to work directly with a ZOLL support technician for any troubleshoot issues, eliminating hours of trying to work through third parties, while increasing cost savings of staff time; and

WHEREAS, in July 2020, with the addition of the City of Oakdale and Oakdale Fire Protection District contracts for fire services, the department added ZOLL service to Stations 27, 28, 29 and 30, aligning the agreement expiration date with Modesto; and

WHEREAS, with the recent addition of the City of Ceres contract for fire services, the department needs ZOLL service to four more stations (15, 17, 18 and 19); and

WHEREAS, the current ZOLL agreements for both Modesto and Oakdale expire July 18, 2022, and the renewal would account for all agencies under one agreement: City of Modesto, City of Oakdale, Oakdale Fire Protection District and City of Ceres; and

WHEREAS, the initial term is for three years, from July 19, 2022 through July 18, 2025, with funds already identified in the fire department's budget to cover the annual cost of the three-year contract.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves a renewal agreement with ZOLL Data Systems, Inc. for hosted server services for both ePCR and FireRMS records management and reporting software, in an annual estimated amount of \$77,124, with a one-time ePCR implementation fee of \$7,500, for a total three-year agreement not to exceed \$238,872.


BE IT FURTHER RESOLVED that the City Manager or designee is hereby authorized to execute the agreement, in a form approved by the City Attorney.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 3rd day of May, 2022, by Councilmember Kenoyer, who moved its adoption, which motion being duly seconded by Councilmember Wright, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Kenoyer, Madrigal, Ricci,  
Wright, Mayor Zwahlen

NOES: Councilmembers: None

ABSENT: Councilmembers: Escutia-Braaton

ATTEST:   
DIANE NAYARES-PEREZ, CMC,  
City Clerk

(SEAL)

APPROVED AS TO FORM:

BY:   
JOSE M. SANCHEZ, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2022-206**

**RESOLUTION APPROVING THE DONATION OF CANINE FUSE FROM THOR'S HOPE FOUNDATION, FOR USE AS A FACILITY DOG FOR THE CITY OF MODESTO FIRE DEPARTMENT, FOR AN ESTIMATED INITIAL COST OF \$287, AND AN ESTIMATED ANNUAL COST OF \$3,337**

WHEREAS, the Modesto Fire Department is in need of a facility dog to improve the health and wellness of its firefighters; and

WHEREAS, toxic stress is something that most firefighters and first responders are exposed to on a consistent basis; and

WHEREAS, high exposure to cortisol and other stress hormones can have a negative effect on humans, both physically and emotionally; however, exposure to an animal, like Canine Fuse, could significantly decrease these stress levels; and

WHEREAS, in June 2021, by Resolution 2021-203, Council approved the donation of Canine Hudson for use as a facility dog, and since then, Hudson has helped improve the health and wellness of not only the Modesto Fire Department's firefighters, but everyone else in the Modesto community as well as surrounding communities; and

WHEREAS, with the recent additions of contracts between the City of Ceres, Stanislaus Consolidated Fire Protection District and Turlock Fire Department, the number of personnel has grown, and so has the need for an additional facility dog; and

WHEREAS, Thor's Hope Foundation, in partnership with Performance K9 Training, Inc., has generously offered to donate Fuse to the Modesto Fire Department for use as a facility dog; and

WHEREAS, the average cost of a facility dog of this caliber is \$10,000 but would be gifted to the department; and

WHEREAS, the estimated initial cost for Fuse is \$287, and estimated annual cost is \$3,337, with costs already budgeted through the Department's behavioral health program.


NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the donation of Canine Fuse from Thor's Hope Foundation, for use as a facility dog for the City of Modesto Fire Department, for an estimated initial cost of \$287, and an estimated annual cost of \$3,337.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 3rd day of May, 2022, by Councilmember Kenoyer, who moved its adoption, which motion being duly seconded by Councilmember Wright, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Kenoyer, Madrigal, Ricci,  
Wright, Mayor Zwahlen

NOES: Councilmembers: None

ABSENT: Councilmembers: Escutia-Braaton

ATTEST:   
DIANE NAYARES-PEREZ, CMC,  
City Clerk

(SEAL)

APPROVED AS TO FORM:

BY:   
JOSE M. SANCHEZ, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2022-207**

**RESOLUTION APPROVING THE SUBMISSION OF AN APPLICATION FOR THE FISCAL YEAR 2022-2023 CAL FIRE RURAL FIRE CAPACITY (RFC) PROGRAM GRANT, IN AN AMOUNT THAT WILL NOT EXCEED \$40,000, WHICH INCLUDES A 50% LOCAL MATCH, FOR THE PROCUREMENT OF WILDLAND FIREFIGHTING EQUIPMENT**

WHEREAS, the Fiscal Year 2022-2023 Cal Fire Rural Fire Capacity Program Grant provides funding to organize, train and equip fire departments in rural areas and rural communities to prevent and suppress fires; and

WHEREAS, the Modesto Fire Department contract with City of Oakdale and Oakdale Fire Protection District makes the Modesto Fire Department eligible to apply for the grant; and

WHEREAS, the RFC Grant Program provides financial assistance directly to eligible fire departments for critical training and equipment with the objective to provide critically needed resources that equip and train emergency personnel to recognized standards, enhance operational efficiencies, foster interoperability, and support community resilience; and

WHEREAS, the department intends to apply for the replacement of wildland firefighting equipment in order to replace aging and outdated wildland equipment that is no longer in service or does not meet current standards; and

WHEREAS, there is a 50% required local match for the Cal Fire RFC Program Grant; the grant application maximum amount is \$40,000 which would require a \$20,000 local match that would be funded from the department's adopted budget; and

WHEREAS, due to the need of replacing critical firefighting equipment, the department would prioritize funding within existing budget for the matching amount; and

WHEREAS, the equipment identified in this grant application has been identified as needing replacement; and

WHEREAS; without this grant the Fire Department would bear the cost of the full \$40,000.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the submission of an application for the Fiscal Year 2022-2023 Cal Fire Rural Fire Capacity (RFC) Program Grant, in an amount that will not exceed \$40,000, which includes a 50% local match, for the procurement of wildland firefighting equipment.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 3rd day of May, 2022, by Councilmember Kenoyer, who moved its adoption, which motion being duly seconded by Councilmember Wright, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Kenoyer, Madrigal, Ricci,  
Wright, Mayor Zwahlen

NOES: Councilmembers: None

ABSENT: Councilmembers: Escutia-Braaton

ATTEST:   
DIANE NAYARIS-PEREZ, CMC,  
City Clerk

(SEAL)

APPROVED AS TO FORM:

BY:   
JOSE M. SANCHEZ, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2022-208**

**RESOLUTION APPROVING THE AWARD OF PROPOSAL AND AGREEMENT FOR CITYWIDE SAFETY CONSULTATION AND TRAINING SERVICES TO NATEC INTERNATIONAL, INC., ANAHEIM, CALIFORNIA, FOR A TWO-YEAR AGREEMENT WITH THREE ONE-YEAR EXTENSION OPTIONS, FOR AN ANNUAL ESTIMATED COST OF \$115,000, AND A TOTAL AMOUNT NOT TO EXCEED \$575,000 OVER FIVE YEARS; AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE AGREEMENT**

WHEREAS, the City recognizes the right of all employees to a safe workplace and values the importance of education and training for all staff to ensure safe work practices are understood and adhered to, and

WHEREAS, through an extensive and on-going safety needs assessment, the City has identified the need for citywide safety training and consultation services to achieve and maintain compliance with Federal, State, and local regulations, and

WHEREAS, on May 7, 2019, by Resolution No. 2019-277, Council approved the award of proposal and contract for the furnishing of safety consultation and training services to Du-All Safety for a term of two (2) years, and

WHEREAS, on April 7, 2021, by Resolution No. 2021-159, Council approved the extension of that agreement through May 6, 2022, and

WHEREAS, the City Manager authorized the Purchasing Manager to issue a formal Request for Proposals (RFP) for the furnishing of safety consultation and training services, and the Purchasing Division subsequently issued RFP No. 2021-18 Safety Consultation and Training Services on November 9, 2021, and

WHEREAS, proposals were formally opened in the City Clerk's office. Twenty-eight (28) companies chose to download the document. Four (4) companies provided a responsive and responsible proposal, and one (1) company was non-responsive, and

WHEREAS, an evaluation committee comprised of City staff representing the Human Resources, Public Works, and Utilities Departments, and the Modesto City Employees' Association, evaluated and graded the proposals, and

WHEREAS, based on being ranked highest in total evaluation criteria, the evaluation committee recommends the award of proposal for safety consultation and training services to NATEC International, Inc., of Anaheim, CA, for an estimated annual cost of \$115,000, and

WHEREAS, Modesto Municipal Code Section 8-3.203 generally requires all purchases, which meet or exceed \$50,000 for material, equipment or contractual services to be formally bid. The award of proposal and contract for safety consultation and training services with NATEC International, Inc., conforms to the Modesto Municipal Code 8-3.203 because they had the highest-ranking score.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Council hereby approves an agreement with NATEC International Inc., Anaheim, CA for a two-year agreement with three one-year extension options, for an annual estimated amount of \$115,000 and a total amount not to exceed \$575,000 over five years.


BE IT FURTHER RESOLVED, that the City Manager, or his designee, is authorized to execute the agreement, in a form approved by the City Attorney.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 3rd day of May, 2022, by Councilmember Kenoyer, who moved its adoption, which motion being duly seconded by Councilmember Wright, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Kenoyer, Madrigal, Ricci,  
Wright, Mayor Zwahlen

NOES: Councilmembers: None

ABSENT: Councilmembers: Escutia-Braaton

ATTEST:   
DIANE NAYANES-PEREZ, CMC,  
City Clerk

(SEAL)

APPROVED AS TO FORM:

BY:   
JOSE M. SANCHEZ, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2022-209**

**RESOLUTION APPROVING LEASE AGREEMENTS BETWEEN THE CITY OF MODESTO AND DEL RIO CC FOUNDATION (FIRST TEE – CENTRAL VALLEY) AND THE BOYS AND GIRLS CLUBS OF STANISLAUS COUNTY FOR LEASE OF PROPERTY LOCATED ON ROSELAWN AVENUE (APNS 037-036-007 AND 037-051-001) FOR OPERATION OF YOUTH PROGRAMMING.**

WHEREAS, the City owns real property, APN 037-036-007 and APN 037-051-001 on Roselawn Avenue adjacent to the Dryden Golf Course (Dryden); and

WHEREAS, the City has worked with the Boys and Girls Clubs of Stanislaus County (Club) and Del Rio CC Foundation, also known as the First Tee – Central Valley (First Tee) to relocate both organization’s youth programming operations to the real property site (Property); and

WHEREAS, the Boys and Girls Clubs of Stanislaus County’s mission is to impact the lives of young people by providing educational programs that enable young people to reach their full potential as productive, caring and responsible adults; and

WHEREAS, by Resolution No. 2016-19, Council approved a Community Development Block Grant (CDBG) which helped finance the purchase and installation of a custom modular building for the Club in an area of Martin Luther King, Jr. Park (formerly Mellis Park), and by Resolution No. 2016-19, leased the park site to the Club for five years; and

WHEREAS, First Tee – Central Valley is a youth development organization that enables kids to build strength of character by integrating the game of golf with a life skills curriculum designed to build inner strength, self-confidence, and resilience in kids that they can carry to everything they do; and

WHEREAS, by Resolution No. 2020-025, Council approved the closure of Muni Golf Course (Muni) and relocating the First Tee program from Muni to Dryden Golf Course; and

WHEREAS, on March 13, 2021, First Tee ceased programming at Muni and relocated to Dryden Golf Course later that year; and

WHEREAS, on January 27, 2022, the Club and First Tee entered into a Memorandum of Understanding to form a partnership to relocate operations to the Property; and

WHEREAS, the City collaborated with the Club and First Tee on a plan to develop the site in phases; and

WHEREAS, by Resolution No. 2021-178, Council approved \$513,394 in CDBG funding in the Annual Action Plan, to fund Phase I; and

WHEREAS, Phase I, relocation and installation of the Club's modular from Martin Luther King Jr. Park to the Property is currently underway; and

WHEREAS, City desires to lease Property to First Tee and Club for ten years with, upon mutual agreement, the option to extend for an additional two (2) ten-year terms; and

WHEREAS, City will charge each organization One Dollar (\$1) in rent per year; and

WHEREAS, Phases II and III will be financed and installed by the Club and First Tee at a later date.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves Lease Agreements between the City of Modesto and the Boys and

Girls Clubs of Stanislaus County and the City of Modesto and Del Rio CC Foundation, for operation of youth programming at APN 037-036-007 and 037-051-001.

BE IT FURTHER RESOLVED that the City Manager, or his designee, is authorized to execute the lease agreements, approved as to form by the City Attorney.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 3rd day of May, 2022, by Councilmember Kenoyer, who moved its adoption, which motion being duly seconded by Councilmember Wright, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Kenoyer, Madrigal, Ricci, Wright, Mayor Zwahlen

NOES: Councilmembers: None

ABSENT: Councilmembers: Escutia-Braaton

ATTEST:   
DIANE NAYARES-PEREZ, CMC,  
City Clerk

(SEAL)

APPROVED AS TO FORM:

BY:   
JOSE M. SANCHEZ, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2022-210**

**RESOLUTION APPROVING THE LIST OF PROJECTS TO BE FUNDED WITH  
ROAD REPAIR AND ACCOUNTABILITY ACT PROCEEDS IN FISCAL YEAR  
2022-23**

WHEREAS, Senate Bill 1 (SB1), the Road Repair and Accountability Act of 2017 (Chapter 5, Statutes of 2017) was passed by the Legislature and Signed into law by the Governor in April 2017 to address the significant multi-modal transportation funding shortfalls statewide; and

WHEREAS, SB1 includes accountability and transparency provisions that will ensure the residents of Modesto are aware of the projects proposed for funding in the community and which projects have been completed each fiscal year; and

WHEREAS, the City must adopt, by resolution, a list of projects proposed to receive fiscal year funding from the Road Maintenance and Rehabilitation Account (RMRA), created by SB1, which must include description and the location of each proposed project, a proposed schedule for projects completion, and the estimated useful life of the improvement; and

WHEREAS, the City will receive funding in an estimated amount of \$4,998,733 in RMRA funding in Fiscal Year 2022-23 from SB1; and

WHEREAS, this is the sixth year in which the City is receiving SB1 funding which will enable the City to continue essential road maintenance, safety improvements in traffic signal and street light maintenance, and traffic sign and striping maintenance that would not have otherwise been possible without SB1; and

WHEREAS, the City has undergone a robust public process to ensure public input regarding the community's transportation priorities are incorporated into the project list; and

WHEREAS, the City used a Pavement Management System to develop the SB1 project list to ensure revenues are being used on the most high-priority and cost-effective projects that also meet the community priorities for transportation investment; and

WHEREAS, the funding from SB1 will help the City maintain and rehabilitate over one-hundred lane miles of residential streets throughout the City this year and multiple similar projects in the future; and

WHEREAS, the 2018 California Statewide Local Streets and Roads Needs Assessment found that the City streets and roads are in a "poor" condition, and this revenue will help the City increase the overall quality of its road system and over the next decade will bring its streets and roads into a "good" condition; and

WHEREAS, the SB1 project list and overall investment in the City's local streets and roads infrastructure with a focus on basic maintenance and safety, investing in complete streets infrastructure, and using cutting-edge technology, materials and practices, will have significant positive co-benefits statewide; and

WHEREAS, the projects listed are anticipated to result in the following life-cycle benefits: The slurry seal project (program) that includes crack seal and asphalt repairs will result in a five to seven-year expected life extension to existing pavement (**Attachment B & C**); the proposed traffic signal (**Attachment D**) and street light maintenance (**Attachment E**) will result in a ten-year life extension due to energy efficient Light Emitting Diode (LED) lighting; the traffic sign and striping maintenance

**(Attachment F)** will result in a two to five-year life extension for the asphalt striping and a five year life extension for signs; video detection will result in a ten to fifteen year life extension versus the City's current vehicle detections loops **(Attachment G)**; and

WHEREAS, equipment listed result in the following life-cycle benefits: a second slurry truck would have an estimated lifespan of eight years. The additional truck would allow Streets and Traffic Division to progress through the City in a more efficient and effective timeline closer to industry standards.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto, that it hereby approve the list of projects **(Attachment A)** for Fiscal Year 2022-23 and funding by SB1: Road Repair and Accountability Act of 2017.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 3rd day of May, 2022, by Councilmember Kenoyer, who moved its adoption, which motion being duly seconded by Councilmember Wright, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Kenoyer, Madrigal, Ricci,  
Wright, Mayor Zwahlen

NOES: Councilmembers: None

ABSENT: Councilmembers: Escutia-Braaton

ATTEST:   
DIANE NAYARES-PEREZ, CMC,  
City Clerk

(SEAL)

APPROVED AS TO FORM:

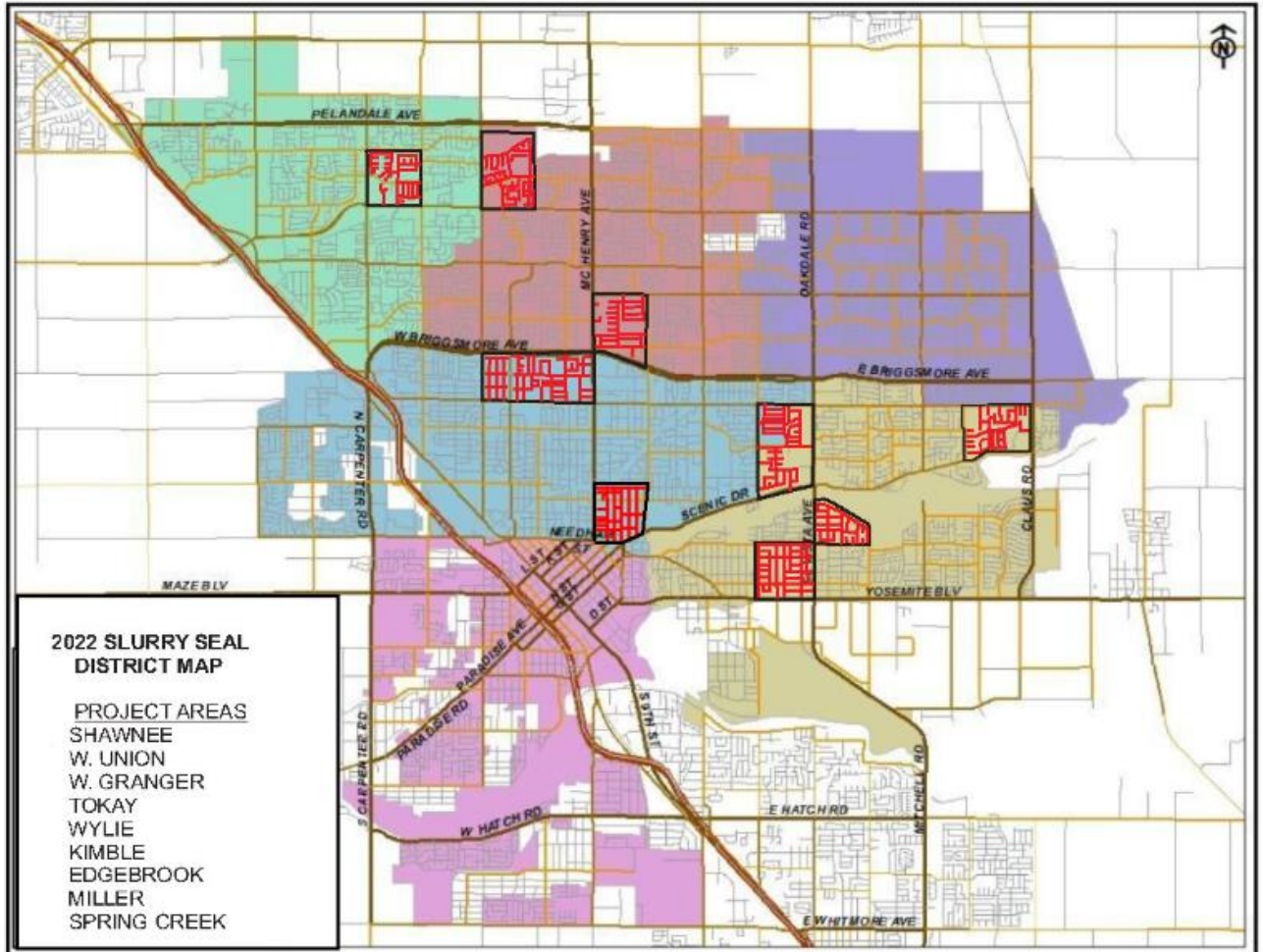
BY:   
JOSE M. SANCHEZ, City Attorney

## Attachment A – FY22/23 SB1 Project List

Project Type	Project Name	Total Project Cost	Estimated Project Start Date	Estimated Project Completion Date	Useful Life	Locations	Community Benefit Summary
Slurry Seal (Type 2 Slurry, Crack Seal, Asphalt repairs)	Slurry Seal	\$2,171,854	July 1, 2022	June 30, 2023			Provide a safe, reliable infrastructure
Equipment	Slurry Truck	500,000	July 1, 2022	June 30, 2023			To comply with industry standard maintenance
Traffic Signal & Street Lighting Maintenance	Traffic Signal & Street Lighting Maintenance	\$1,220,000	July 1, 2022	June 30, 2023	10 Years	Various Locations	Public Safety; Signal and Street lighting maintenance within City limits
Traffic Signal Maintenance	Replacement of Vehicle Detection in the Downtown	\$575,000	July 1, 2022	June 30, 2023	10-15 years	23 Downtown Signals	Public Safety; Signal Maintenance
Traffic Sign & Striping Maintenance	FY 22-23 Traffic Sign & Striping Maintenance	\$550,000	July 1, 2022	June 30, 2023	5 Year	Various Locations	Public Safety; Striping and Sign maintenance within City limits
	Total FY 22/23	\$5,016,854					

Attachment B – FY22/23 Slurry Seal Map

2022 SLURRY SEAL PROJECTS



**Attachment C – FY22/23 Slurry Seal Street Names**

<b>City of Modesto, Streets Division</b>		
<b>Slurry Seal Program</b>		
<b>2022/2023 Street Segment List</b>		
<b>Street Name</b>	<b>From</b>	<b>To</b>
Rotterdam Ave	Cheyenne Way	Amsterdam Ln
Amserdam Ln	Rotterdam Ave	Terneuzen Ave
Terneuzen Ave	Cheyenne Way	Amsterdam Ln
Zeeland Ct	Rotterdam Ave	End
Cadzand Ct	Rotterdam Ave	End
Hulst Ct	Rotterdam Ave	End
Hague Ct	Hulst Ct	End
Oostburg Ct	Terneuzen Ave	End
Middleburg Ct	Terneuzen Ave	End
Axel Ct	Terneuzen Ave	End
Chippewa St	Cheyenne Way	Shawnee Dr
Rodeo Ci	Chippewa St	End
Shawnee Ave	Mark Mead Ln	Standiford Ave
Doheny Way	Cheyenne Way	San Clemente Ave
San Clemente Ave	Doheny Way	Standiford Ave
Shell Ct	San Clemente Ave	End
Agate Dr	Cheyenne Way	End
Mark Mead Ln	Shawnee Dr	Warmerdam Ln
Warmerdam Ln	Mark Mead Ln	Patton Dr
Patton Dr	Shawnee Dr	Warmerdam Ln
Volendam Ave	Shawnee Dr	Carver Rd
Breda Ct	Volendan Ave	End
Terhune Ct	Volendan Ave	End
Choctaw Way	Shawnee Dr	Carver Rd
Pomo Ln	Cheyenne Way	Choctaw Way
Cherokee Ln	Cheyenne Way	Choctaw Way
Seminole Ln	Cheyenne Way	Choctaw Way
Mohawk Ln	Cheyenne Way	Choctaw Way
La Corunna Pl	Shawnee Dr	
Palmilla Dr	Tully Rd	Semallon Dr
Pan Am Dr	Palmilla Dr	End
Tahiti Ln	Palmilla Dr	Tasmania Way
Tasmania Way	Tahiti Ln	Moorea Dr
Moorea Dr	Palmilla Dr	Tasmania Way
Auckland Ct	Palmilla Dr	End
Wesson Ranch Rd	Palmilla Dr	W Union Ave
Lindsay Dr	Palmilla Dr	Semallon Dr

Ogden Ct	Palmilla Dr	End
Ristau Ct	Palmilla Dr	End
Semallon Dr	W Union Ave	End
Mango Dr	Wesson Ranch Rd	Cairns Way

<b>Street Name</b>	<b>From</b>	<b>To</b>
Cairns Way	Mango Dr	Guava Dr
Guava Dr	Cairns Way	Tea Leaf Dr
Guava Ct	Guava Dr	End
Fuji Ct	Guava Dr	End
Tea Leaf Dr	Guava Dr	Lindsay Dr
Massera Way	Semallon Dr	Emperor Ln
Emperor Ln	Massera Way	Perlette Way
Perlette Way	Emperor Ln	Semallon Dr
Citation Way	W Union Ave	Chateaugay Dr
Chateaugay Dr	Citation Way	Noor Way
Noor Way	Chateaugay Dr	W Union Ave
Kelso Way	Chateaugay Dr	W Union Ave
Alsab Ct	W Union Ave	End
Ribot Ct	Chateaugay Dr	End
Busher Ct	W Union Ave	End
W Union Ave	Tully Rd	Semallon Dr
Colonial Dr	W Union Ave	Standiford Ave
Noarco Dr	Colonial Dr	Whirlaway Dr
Whirlaway Dr	W Union Ave	Noarco Dr
Cicada Ct	Noarco Dr	End
Winegarden Dr	W Union Ave	Standiford Ave
Grapeleaf Way	Winegarden Dr	End
Grapeleaf Way	Winegarden Dr	Almeria Dr
Almeria Dr	Grapeleaf Way	Muscat Way
Muscat Way	Almeria Dr	Winegarden Dr
Canelli Ci	Winegarden Dr	End(s)
St Helena Ct	Winegarden Dr	End
St Helena Pl	Winegarden Dr	Portabello Dr
Portabello Dr	St Helena Pl	Winery Way
Winery Way	Portabello Dr	End
Pennington Pl	Winegarden Dr	Brookline St
Brookline St	Pennington Pl	Burlington Dr
Charter Ln	Colonial Dr	Brookline St
Burlington Dr	Brookline St	Morristown Rd
Morristown Rd	Burlington Dr	Pennington Pl
Medford Ln	Pennington Pl	Whitemarsh Way
Whitemarsh Way	Colonial Dr	End
Pennington Ci	Pennington Pl	End
Sheila Ct	McHenry Ave	End
Mark Randy Pl	McHenry Ave	End
Tokay Ave	McHenry Ave	Sunrise Ave
Norwegian Ave	McHenry Ave	Sunrise Ave
Toyon Ave	Tokay Ave	Norwegian Ave
Codding Dr	Bruce Ct	Norwegian Ave
Phillip Ct	Codding Dr	End
Brian Ct	Codding Dr	End

<b>Street Name</b>	<b>From</b>	<b>To</b>
Raven Ct	Codding Dr	End
Dove Ct	Codding Dr	End
Eagle Ct	Codding Dr	End
Bruce Ct	Codding Dr	End
Bruce Ave	Codding Dr	Dana Ln
Jasmin Ave	Floyd Ave	Charles Ave
Dana Ln	Floyd Ave	Charles Ave
Charles Ave	Jasmin Ave	Sunrise Ave
Broderick Ave	Jasmin Ave	Dana Ln
Ryan Ave	Jasmin Ave	Dana Ln
La Cienega Dr	Norwegian Ave	Tokay Ave
La Cienega Dr	Charles Ave	End
Ribier Ave	Toyon Ave	Valle Vista Ave
Valle Vista Ave	Tokay Ave	Norwegian Ave
Eldena Way	Norwegian Ave	End
Woodman Wy	Tully Rd	College Ave
Stetson Ave	Woodman Wy	W. Orangeburg
Albany Ave	Woodman Wy	W. Orangeburg
Concord Ave	Woodman Wy	W. Orangeburg
W. Granger	Tully Rd	College Ave
Pearl St	Tully Rd	College Ave
Ardmor Ave	College Ave	W. Orangeburg
Calder Ct	Ardmor Ave	End
Middleton Ct	Ardmor Ave	End
Thoreau Ct	Ardmor Ave	End
Bronson Ave	Granger Ave	End
Carlton Ave	Granger Ave	End
Bronson Ave	Granger Ave	W. Orangeburg
Barham Ct	Carlton Ave	Carlton Ave
Carlton Ave	Granger Ave	Pearl St
Pearl St	College Ave	Carlton Ave
Calle De Flores	Granger Ave	Calle De Rosas
Calle De Rosas	Calle De Flores	Granger Ave
Gayle Ct	Sherwood Ave	End
Gayle Ave	Sherwood Ave	June Dr
June Dr	Gayle Ave	Lelah Ave
Lelah Ave	June Dr	Sherwood Ave
August Ct	Lelah Ave	End
Timothy Ave	Granger Ave	End
Judith Ln	June Dr	McHenry
Burchell Ct	McHenry	End
Granger	College Ave	McHenry
Sherwood Ave	Briggsmore Ave	W. Orangeburg
Catalina Wy	Roosevelt Dr	Sherwood Ave
Roosevelt Dr	Catalina Wy	W. Orangeburg
Enslin Ave	Granger Ave	W. Orangeburg

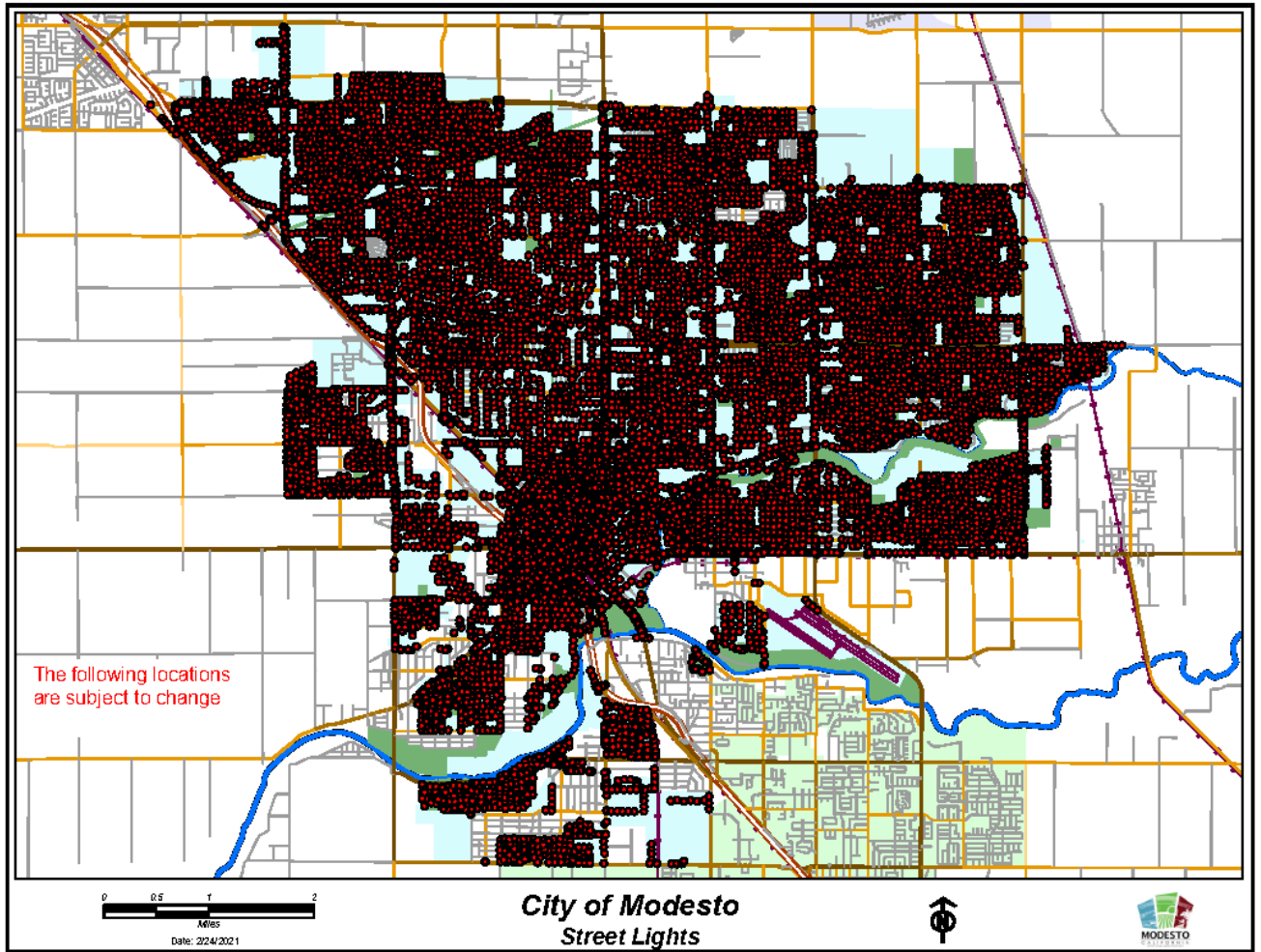
<b>Street Name</b>	<b>From</b>	<b>To</b>
Bermuda Wy	Roosevelt Dr	Sherwood Ave
Balboa Wy	Enslin Ave	Sherwood Ave
Coronado Wy	Enslin Ave	Sherwood Ave
Florida Ave	Granger Ave	W. Orangeburg
Coolidge Ave	Florida Ave	McHenry
Claradell Ave	Florida Ave	McHenry
Scottsdale Wy	Orangeburg Ave	Landini Wy
Rossmoor wy	Scottsdale Wy	Muirswood Wy
Covington Wy	Scottsdale Wy	Muirswood Wy
Margate Wy	Scottsdale Wy	Muirswood Wy
Kruger Dr	Rose Ave	Wylmawood Wy
Hermida Wy	Scottsdale Wy	Muirswood Wy
Landini Wy	Scottsdale Wy	Muirswood Wy
Muirswood Wy	Orangeburg Ave	Wylie Dr
Sharonwood Dr	Orangeburg Ave	Kruger Dr
Ginnywood Wy	Sharonwood Dr	Wylmawood Wy
Wylmawood Wy	Ginnywood Wy	Kruger Dr
Valeriewood Wy	Kruger Dr	Sweetwater Dr
Woodacre Dr	Valeriewood Wy	Shady Grove Ln
Shady Grove Ln	Woodacre Dr	Meadowlark Dr
Meadowlark Dr	Muirswood Wy	Valeriewood Wy
Sweetwater Dr	Muirswood Wy	Valeriewood Wy
Ferrara Ct	Valeriewood Wy	End
Wylie Dr	Rose Ave	Oakdale Rd
Strathmore Dr	Wylie Dr	Devonshire Ave
Bannister Pl	Strathmore Dr	End
Cardigan Wy	Strathmore Dr	End
Scarborough Ct	Strathmore Dr	End
Chelwood Wy	Strathmore Dr	End
Camelot Ct	Strathmore Dr	End
Giardino Wy	Rose Ave	Rosmarino Wy
Rosmarino Wy	Giardino Wy	Vista Dr
Vista Dr	Rosmarino Wy	Rio Vista Dr
Rio Vista Dr	Vista Dr	Brookvale Dr
Brookvale Dr	Vista Dr	Scenic Dr
Dochchester Ave	Vista Dr	Devonshire Ave
Devonshire Ave	Dochchester Ave	Rose Ave
Leytonstone Ave	Devonshire Ave	Camden Dr
Camden Dr	Leytonstone Ave	Strathmore Dr
Winfield Pl	Devonshire Ave	End
Lillian Dr	E Orangeburg Ave	Scenic Dr
Saginaw Ct	Lillian Dr	End
Woodbine Dr	Lillian Dr	Springcreek Dr
Winchester Ct	Lillian Dr	End
Elke Ct	Lillian Dr	End
Joanna Dr	Lillian Dr	Ojai Ln

<b>Street Name</b>	<b>From</b>	<b>To</b>
Ojai Ln	Joanna Dr	Woodbine Dr
Wildflower Dr	Joanna Dr	Ojai Ln
Fransen Ln	E Orangeburg Ave	Dowd Dr
Fransen Ct	Dowd Dr	End
Christopher Ct	E Orangeburg Ave	End
Dowd Dr	Fransen Ln	Woodlark Way
Woodlark Way	Woodbine Dr	North Pointe Pl
Woodlark Ct	Woodlark Way	End
North Pointe Pl	Windwood Pl	End
Windwood Pl	North Pointe Pl	Glenbrook Way
Hidden Glen Dr	E Orangeburg Ave	Windwood Pl
East Glen Ci	Hidden Glen Dr	End
Broughton Pl	Windwood Pl	Argonaut Dr
Argonaut Dr	Broughton Pl	Glenbrook Way
Broughton Ct	Broughton Pl	End
Glenbrook Way	E Orangeburg Ave	Springcreek Dr
Springcreek Dr	Scenic Dr	Glenbrook Way
Gargotto Ct	E Orangeburg Ave	End
Jarrell Ct	E Orangeburg Ave	End
Apple Hill Rd	Springcreek Dr	End
Nut Tree Ln	Apple Hill Rd	Springcreek Dr
Pebble Ln	Apple Hill Rd	Sandcreek Way
Sandcreek Way	Pebble Ln	Nut Tree Ln
Cedar Creek DR	Claus Rd	Cedar Creek Ct
Cedar Creek Ct	Cedar Creek Ct	End
Edgebrook Dr	El Vista Ave	Riverside Dr
Pacific Ave	Edgebrook Dr	Colfax Ave
Carol St	El Vista Ave	Trask Ln
Lambert St	El Vista Ave	Trask Ln
Ada St	El Vista Ave	Afton Wy
Meta Ct	Ada St	Ada St
Colfax Ave	Edgebrook Dr	Encina Ave
Trask Ln	Edgebrook Dr	Encina Ave
Curry Ave	Edgebrook Dr	Ada St
Precie Ct	Edgebrook Dr	End
Afton Wy	Edgebrook Dr	Hamble Ln
Brook View Ct	Edgebrook Dr	End
Moray Ct	Hamble Ln	End
Humber Ct	Hamble Ln	End
Thames Ct	Hamble Ln	End
Hamble Ln	Trask Ln	Riverside Dr
Riverside	Edgebrook Dr	Encina Ave
Encina Ave	El Vista Ave	Riverside Dr
N. Conejo Ave	Encina Ave	Yosemite Blvd
Julian Ave	N. Conejo Ave	Fusco Ave
Roble Ave	N. Conejo Ave	El Vista Ave

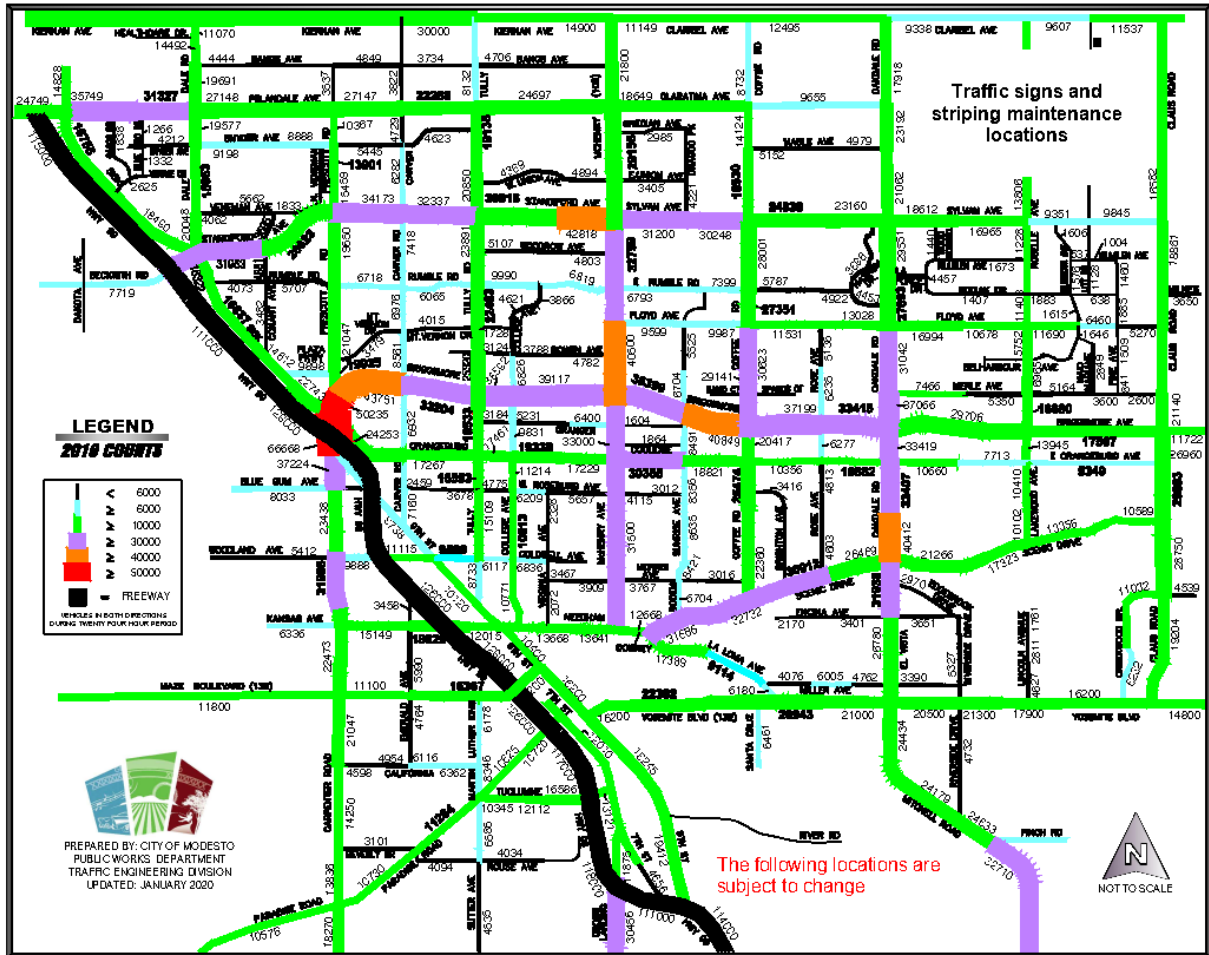
<b>Street Name</b>	<b>From</b>	<b>To</b>
Paul Ave	N. Conejo Ave	Fusco Ave
Uccello Ave	N. Conejo Ave	Fusco Ave
Rhien Ave	N. Conejo Ave	Fusco Ave
Fusco Ave	Encina Ave	Miller Ave
San Juan Dr	Encina Ave	Yosemite Blvd
Phoenix Ave	Encina Ave	Yosemite Blvd
Fortuna Ave	Encina Ave	Haddon Ave
Viola St	Fortuna Ave	Parry Ave
Bellamy St	Fortuna Ave	Parry Ave
Haddon Ave	Phoenix Ave	El Vista Ave
Dora St	Phoenix Ave	Parry Ave
Parry Ave	Encina Ave	Yosemite Blvd
Oakshire Ave	Encina Ave	Miller Ave
Miller Ave	N. Conejo Ave	El Vista Ave
Maria Ct	Miller Ave	Miller Ave
Glendale Ave	Phoenix Ave	El Vista Ave
Encina Ave	N. Conejo Ave	El Vista Ave
Jones St	Mc Henry	Kimble St
Grant St	Mc Henry	Johnson St
Lee St	Mc Henry	Johnson St
Floto Wy	Mc Henry	Kimble St
Almond Ave	Mc Henry	Johnson St
Modesto Ave	Mc Henry	Johnson St
Johnson St	Lucern	Downey Ave
Semple St	Maynell Ave	Downey Ave
Kimble St	Lucern	Downey Ave
High St	Lucern	Downey Ave
Melrose St	Lucern	Downey Ave
Redwood Ave	Kimble St	Melrose St
Cedar Ave	Kimble St	Bodem St.
Davis St	Semple St	Kimble St
Foy St	Maynell Ave	E. Morris Ave
Baker Wy	Mc Henry	Johnson St
Maynell Ave	Mc Henry	Kimble St
Lucern Ave	Johnson St	Bodem St.
E. Morris	Mc Henry	Bodem St.
Bodem St.	Lucern	Downey Ave



# Attachment E – FY22/23 Street Lights Map

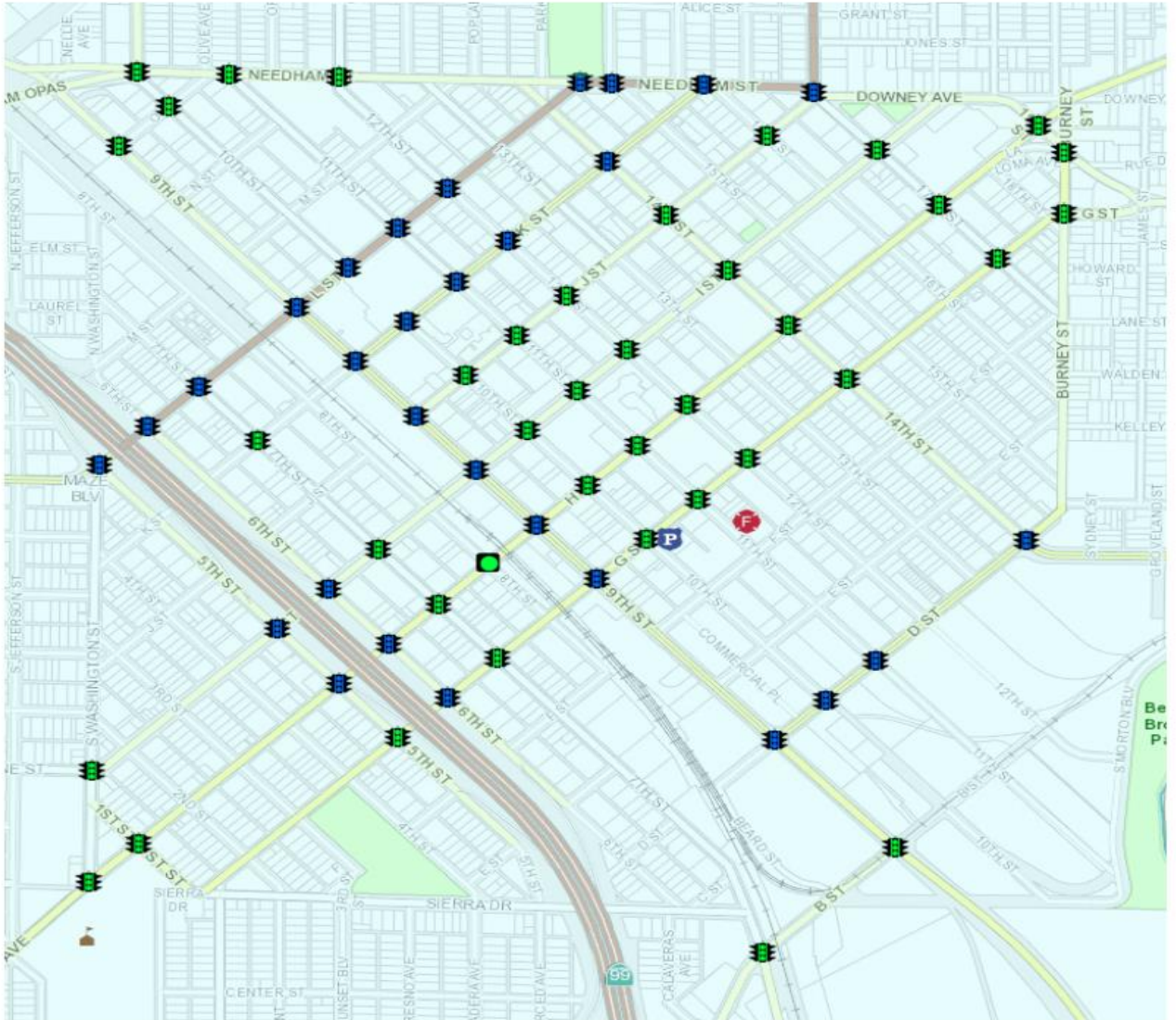


# Attachment F – FY22/23 Traffic Signs and Striping Map



Attachment G – FY22/23 Downtown Signals Map

# Downtown Signals Map



**MODESTO CITY COUNCIL  
RESOLUTION NO. 2022-211**

**RESOLUTION APPROVING AN AGREEMENT FOR THE PURCHASE OF  
REUSE WATER FROM THE TURLOCK IRRIGATION DISTRICT AND  
AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE  
THE AGREEMENT**

WHEREAS, an average of 20 million gallons of domestic wastewater is treated per day by the City's Sutter and Jennings wastewater treatment facilities, of which nearly 15 million gallons per day is further treated to tertiary (recycled) water levels, and

WHEREAS, this recycled water is conveyed to the Delta Mendota Canal and is sold to the Del Puerto Water District, and

WHEREAS, the remaining non-tertiary treated domestic wastewater, as well as seasonal segregated cannery process water, is disposed of on a 2,500-acre ranch at the Jennings facility, and

WHEREAS, the disposal of the seasonal segregated cannery process water is governed by Waste Discharge Requirements (WDR) Order 99-112, issued by the Regional Water Quality Control Board (RWQCB). Without healthy crops to uptake waste loads discharged to the Jennings Ranch, the City risks violating the conditions of the WDR which will incur fines assessed by the RWQCB, and

WHEREAS, additional water sources are required to maintain proper irrigation practices of the crops on the Jennings Ranch. The City has historically leased the Jennings Ranch to experienced agricultural tenants to accomplish remaining wastewater disposal through agricultural irrigation of feed and fodder crops, and

WHEREAS, due to the volume of remaining non-tertiary treated domestic flows, and exacerbated by current drought conditions, the City of Modesto has a water supply

deficit, which impacts the City's ability to plant, grow, and irrigate agricultural crops at the Jennings Ranch, and affects the land disposal of segregated cannery process water, and

WHEREAS, depending on water year type, location, operations, maintenance, and delivery demands, the Turlock Irrigation District (TID) will have a variably amount of "reuse" water from upstream agricultural users in the TID's Westport Drain, and

WHEREAS, the Westport Drain, which is located directly at the northern boundary of the Jennings Facility, is part of the TID's gravity system and is located downstream of all TID's points of delivery, and

WHEREAS, TID has made this reuse water available for the City to purchase. By purchasing this reuse water for Ranch Operations, it will ensure that the City is able to continue to meet its wastewater treatment, Ranch irrigation, and recycled water delivery obligations, and

WHEREAS, the City shall pay the District one hundred dollars and no/100 cents (\$100.00) per acre foot for the Reuse Water, and

WHEREAS, depending on the year, it is anticipated that the City will need anywhere from nine hundred (900) to one thousand and five hundred (1,500) acre feet per year for an estimated amount between ninety thousand (\$90,000) and one hundred and fifty thousand (\$150,000) dollars annually.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves an Agreement for the purchase of Reuse Water from the Turlock Irrigation District.

BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to execute the Agreement, in a form approved by the City Attorney.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 3rd day of May, 2022, by Councilmember Kenoyer, who moved its adoption, which motion being duly seconded by Councilmember Wright, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Kenoyer, Madrigal, Ricci,  
Wright, Mayor Zwahlen

NOES: Councilmembers: None

ABSENT: Councilmembers: Escutia-Braaton

ATTEST:



DIANE NAYARÉS-PEREZ, CMC,  
City Clerk

(SEAL)

APPROVED AS TO FORM:

BY:



JOSE M. SANCHEZ, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2022-212**

**RESOLUTION APPROVING THE REHIRE OF MICHAEL BUMANLAG ON A PART-TIME BASIS FOR A LIMITED DURATION OF UP TO THREE (3) MONTHS FOR THE PURPOSES OF PROVIDING CRITICAL SOFTWARE SUPPORT TO ENSURE THE PUBLIC CAN BE PROVIDED SERVICE WITHOUT INTERRUPTION AND OVERSEEING THE TRAINING AND TRANSFER OF KNOWLEDGE TO HIS REPLACEMENT FOR A COST NOT TO EXCEED \$25,000**

WHEREAS, the City requests authorization to utilize the services of retired annuitant Michael Bumanlag on a part time basis, and

WHEREAS, changes to the California Public Employee Retirement System (CalPERS), requires that a retiree serve a 180-day waiting period prior to being allowed to work for a CalPERS agency with the following exceptions, and

WHEREAS, pursuant to Government Code TITLE 1. DIVISION 7. MISCELLANEOUS [6000.-7598.] CHAPTER 21. Public Pension Retirement Plans 7522.56(f)(1-4), section 7522.56 (f)(1) serves as the applicable exception for this request: “The employer certifies the nature of this employment and that the appointment is necessary to fill a critically needed position before 180 days has passed and the appointment has been approved by the governing body of the employer in a public meeting. The appointment may not be placed on a consent calendar.”, and

WHEREAS, CALPERS Publication 33 stipulates certain conditions must all be met in order for an appointment to move forward. These conditions are:

- Appointee has specialized skills needed to perform work of limited duration or the employment is needed during an emergency to prevent stoppage of public business.

- Temporary employment will not exceed 960 hours in a fiscal year (July 1<sup>st</sup> through June 30<sup>th</sup>).
- The compensation cannot exceed the maximum monthly base salary paid to other employees performing comparable duties, divided by 173.333 to equal an hourly rate.
- Retired annuitants cannot receive any benefit, incentive, compensation in lieu of benefits, or other form of compensation in addition to the hourly pay rate, and

WHEREAS, Mr. Bumanlag has worked for the City for over 14 years, and

WHEREAS, Mr. Bumanlag has an in-depth working knowledge of the systems software utilized for operations within the Finance Department and Water Department, including revenue generating software for Utility Billing and Collections, Business License, Cannabis and Transient Occupancy Tax Billing and Collections, water meter reading software and a point of sale system used to post City of Modesto revenues, various online bill pay solutions, integrations between these dissimilar systems, and file transfer software used citywide.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the rehire of Michael Bumanlag on a part-time basis for a limited duration of up to three (3) months for the purposes of providing critical software support to ensure the public can be provided service without interruption and overseeing the training and transfer of knowledge to his replacement for a cost not to exceed \$25,000

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 3rd day of May, 2022, by Councilmember Wright, who moved its adoption, which motion being duly seconded by Councilmember Kenoyer, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Kenoyer, Madrigal, Ricci,  
Wright, Mayor Zwahlen

NOES: Councilmembers: None

ABSENT: Councilmembers: Escutia-Braaton

ATTEST:



DIANE NAYARES-PEREZ, CMC,  
City Clerk

(SEAL)

APPROVED AS TO FORM:

BY:



JOSE M. SANCHEZ, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2022-213**

**RESOLUTION APPOINTING AMANDA J. HEITLINGER TO THE MODESTO  
DOWNTOWN IMPROVEMENT DISTRICT BOARD OF DIRECTORS FOR A  
FOUR YEAR TERM TO EXPIRE JANUARY 1, 2026**

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, Modesto Downtown Improvement District promotes a positive atmosphere in the downtown by caring for physical space, with the mission to attract and retain business, employees, residents and visitors to downtown Modesto; and

WHEREAS, the Modesto Downtown Improvement District Advisory Board, also known as Board of Directors, consists of nine (9) members serving in the role of the City's concierge; and

WHEREAS, the Modesto Downtown Improvement District Board of Directors are recommending the appointment of Amanda J. Heitlinger to a term ending January 1, 2026 to the Downtown Improvement District Board of Directors.

NOW, THEREFORE, BE IT RESOLVED, by the Council of the City of Modesto that is hereby approves the appointment of Amanda J. Heitlinger to the Modesto Downtown Improvement District Board of Directors for a four-year term to expire January 1, 2026.


BE IT FURTHER RESOLVED, that the City Clerk is hereby directed to transmit a copy of this Resolution to the appointed member of the Downtown Improvement District Board of Directors, and Secretary thereof.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 10th day of May, 2022, by Councilmember Wright, who moved its adoption, which motion being duly seconded by Councilmember Escutia-Braaton, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Escutia-Braaton, Kenoyer, Madrigal, Ricci, Wright, Mayor Zwahlen

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST:   
DIANE NAYARÉS-PÉREZ, CMC,  
City Clerk

(SEAL)

APPROVED AS TO FORM:

BY:   
JOSE M. SANCHEZ, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2022-214**

**RESOLUTION APPROVING THE APPOINTMENT OF ALLAN RAMSAY FOR  
THE VACANT POSITION OF SMALL AIRCRAFT OWNER/GENERAL  
AVIATION TO THE MODESTO CITY-COUNTY AIRPORT ADVISORY  
COMMITTEE FOR A TWO-YEAR TERM**

WHEREAS, the City of Modesto operates the Modesto City-County Airport (Airport) for the benefit of all businesses, industries, visitors and residents in the City of Modesto, Stanislaus County and surrounding areas; and

WHEREAS, the Modesto City Council and the Stanislaus Board of Supervisors seek to ensure that the Airport is maintained and developed in such a manner that it will continue to be a high-quality aviation facility for its users and a good neighbor in the community, recognizing that both the users and community may change as the surrounding area continues to grow and develop; and

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, Council has considered the experience and qualifications of the candidate, Allan Ramsay and find that he would be appropriate to fill the position of Small Aircraft Owner/General Aviation member.


NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the appointment of Allan Ramsey to fill the position on the Modesto City-County Airport Advisory Committee, representing Small Aircraft Owner/General Aviation

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 10th day of May, 2022, by Councilmember Kenoyer, who moved its adoption, which motion being duly seconded by Councilmember Escutia-Braaton, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Escutia-Braaton, Kenoyer, Madrigal, Ricci, Wright, Mayor Zwahlen

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST:   
DIANE NAYARES-PEREZ, CMC,  
City Clerk

(SEAL)

APPROVED AS TO FORM:

BY:   
JOSE M. SANCHEZ, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2022-215**

**RESOLUTION APPROVING A WILL SERVE LETTER AND OUTSIDE SERVICE AGREEMENT BETWEEN THE CITY OF MODESTO AND OMAR O OCTAVIO FRAGOSO AND JOCELYN AVILA, HUSBAND AND WIFE, AS JOINT TENANTS, TO CONNECT TO THE CITY OF MODESTO'S EXISTING SEWER SYSTEM FOR THE PROPERTY LOCATED AT 908 SEYBOLD AVENUE (APN: 030-014-027), AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO THE SIGN THE WILL SERVE LETTER AND EXECUTE THE OUTSIDE SERVICE AGREEMENT**

WHEREAS, Omar O. Octavio Fragoso and Jocelyn Avila, husband and wife as joint tenants, own a residential property located at 908 Seybold Avenue which is located outside of Modesto City Limits and inside the City's Sphere of Influence; and

WHEREAS, the property located at 908 Seybold Avenue, is not connected to City's sewer system and is requesting a sewer connection for a new facility; and

WHEREAS, on November 25, 2014, City Council approved Resolution No. 2014-473 amending City Council Policy 5.002; and

WHEREAS, on December 9, 2014, City Council approved adoption of Ordinance No.3612-C.S. amending City of Modesto Municipal Code Section 11-1.05; and

WHEREAS both of these amendments included language allowing the City Manager, upon the recommendation of the Director responsible for utility system planning to approve standard agreements of service for extension of sewer services into certain unincorporated areas without City Council approval; and

WHEREAS, the property located at 908 Seybold Avenue is not located within one of those designated areas and therefore requires City Council approval prior to allowing the sewer connection; and

WHEREAS, City staff has completed an analysis and determined that it is reasonable for the City of Modesto to provide sewer service to this property; and

WHEREAS, consistent with adopted LAFCO Policy 15, the extension of sewer service is proposed to remedy a health and safety concern in an area with an existing sewer system; and

WHEREAS, the sewer connection fees shall be paid and associated permits will be obtained prior to connecting to the City sewer system; and

WHEREAS, the property owner has executed an Outside Service Agreement for sewer service with the City as required to receive sewer service outside the City limits.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the Will Serve Letter and Outside Service Agreement between the City of Modesto and Omar O. Octavio Fragoso and Jocelyn Avila, husband and wife, as joint tenants, to connect to the City of Modesto's existing sewer system for the property located at 908 Seybold Avenue (APN: 030-014-027)..

BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to approve the Will Serve letter and execute the Outside Service Agreement for sewer service.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 10th day of May, 2022, by Councilmember Kenoyer, who moved its adoption, which motion being duly seconded by Councilmember Wright, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Escutia-Braaton, Kenoyer, Madrigal, Ricci, Wright, Mayor Zwahlen

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST:   
DIANE NAYARÉS-PÉREZ, CMC,  
City Clerk

(SEAL)

APPROVED AS TO FORM:

BY:   
JOSE M. SANCHEZ, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2022-216**

**RESOLUTION APPROVING THE PLANS AND SPECIFICATIONS FOR THE PELANDALE NEIGHBORHOOD PAVEMENT MAINTENANCE AND VIRGINIA CORRIDOR TRAIL MAINTENANCE PROJECT, ACCEPTING THE BID, AND AWARDING A CONTRACT TO AMERICAN PAVEMENT SYSTEMS, INC. OF MODESTO, CALIFORNIA, IN THE AMOUNT OF \$1,888,619 AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE TO EXECUTE THE AGREEMENT**

WHEREAS, plans and specifications have been prepared for the Pelandale Neighborhood Pavement Maintenance and Virginia Corridor Trail Maintenance Project, and City staff recommends approval by the City Council; and

WHEREAS, the bids received for the Pelandale Neighborhood Pavement Maintenance and Virginia Corridor Trail Maintenance Project were publicly opened at 11:00 a.m. on April 12, 2022, and later tabulated by the Director of Community and Economic Development for the consideration of Council; and

WHEREAS, the Director of Community and Economic Development has recommended that the bid of \$1,888,619 received from American Pavement Systems, Inc. of Modesto, California be accepted as the lowest responsible and responsive bid and the contract be awarded to American Pavement Systems, Inc.; and

WHEREAS, Modesto Municipal Code Section 8-3.203 generally requires all purchases, which meet or exceed \$50,000 for material, equipment or contractual services, to follow the formal bid procedures; and

WHEREAS, an award of \$1,888,619 and agreement for construction for Community and Economic Development Department to use American Pavement Systems, Inc. of Modesto, California, conforms to the Modesto Municipal Code because

the City complied with the formal bid procedures and American Pavement Systems, Inc. of Modesto, California, was the lowest responsive bidder.

NOW, THEREFORE BE IT RESOLVED, by the Council of the City of Modesto that it hereby approves the plans and specifications for the Pelandale Neighborhood Pavement Maintenance and Virginia Corridor Trail Maintenance Project, accepts the bid of American Pavement Systems, Inc. of Modesto, California, in the amount of \$1,888,618.75, and awards American Pavement Systems, Inc. the contract for the Pelandale Neighborhood Pavement Maintenance and Virginia Corridor Trail Maintenance Project.


BE IT FURTHER RESOLVED, that the City Manager, or his designee, is hereby authorized to execute the contract, in a form approved by the City Attorney.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 10th day of May, 2022, by Councilmember Kenoyer, who moved its adoption, which motion being duly seconded by Councilmember Wright, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Escutia-Braaton, Kenoyer, Madrigal, Ricci, Wright, Mayor Zwahlen

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST:   
DIANE NAYARES-PEREZ, CMC,  
City Clerk

(SEAL)

APPROVED AS TO FORM:

BY:   
JOSE M. SANCHEZ, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2022-217**

**RESOLUTION AMENDING THE FISCAL YEAR 2021-2022 CAPITAL IMPROVEMENT PROGRAM (CIP) BUDGET, PROJECT #101247 IN THE AMOUNT OF \$200,000 AND A REDUCTION IN THE AMOUNT OF \$400,000 FOR PROJECT #101249, AND AMENDING THE TRANSFER FROM THE MEASURE L ROAD TAX FUND TO FUND THE PROJECT AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO TAKE THE NECESSARY STEPS TO IMPLEMENT THE PROVISIONS OF THIS RESOLUTION**

WHEREAS, the Pelandale Neighborhood Pavement and Virginia Corridor Trail Maintenance projects will maintain approximately 12.6 center line miles or 2,190,000 square feet; and

WHEREAS, anticipated improvements include slurry seal surface treatment and restriping, removal of non-compliant ADA ramps, and construction of new compliant ramps in multiple locations; and

WHEREAS, the project was advertised for bid on March 15, 2022 and bids were publicly opened on April 12, 2022; and

WHEREAS, additional funding in the amount of \$200,000 is needed for project #101247 related to the construction contract and sufficient funds are available in the Traffic Management category in the Measure L Local Road Tax Fund; and

WHEREAS, it was determined project #101249 needs a reduction in budget of \$400,000 as the project needs less funds in the Local Streets and Roads category of the Measure L Local Road Tax Fund; and

WHEREAS, the City Council shall consider amending the Capital Improvement Program (CIP) budget to increase the transfer of \$200,000 from the Measure L Road Tax fund to Project #101247 and decrease the transfer of \$400,000 from the Measure L fund

to Project #101249 and allocate adjustment to the projects discretionary budgets to fully fund the project and encumber the construction contract.

NOW, THEREFORE, BE IT RESOLVED, that the Council of the City of Modesto that it hereby amends the Fiscal Year 2021-2022 Capital Improvement Program (CIP) Budget Project #101247 in the amount of \$200,000 and a reduction in the amount of \$400,000 for Project #101249, and amending the transfer from the Measure L Road Tax fund to fund the project.

BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to implement the provision of this resolution.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 10th day of May, 2022, by Councilmember Kenoyer, who moved its adoption, which motion being duly seconded by Councilmember Wright, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Escutia-Braaton, Kenoyer, Madrigal, Ricci, Wright, Mayor Zwahlen

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST:   
DIANE NAYARES-PEREZ, CMC,  
City Clerk

(SEAL)

APPROVED AS TO FORM:

BY:   
JOSE M. SANCHEZ, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2022-218**

**RESOLUTION APPROVING THE PROPOSED AIRSPACE AND ROADWAY  
EASEMENTS WITHIN TUOLUMNE RIVER REGIONAL PARK GATEWAY  
PARCEL (APN: 102-016-003) NECESSARY TO CONSTRUCT THE 7TH  
STREET BRIDGE REPLACEMENT PROJECT**

WHEREAS, Stanislaus County Department of Public Works, in cooperation with the City of Modesto, California Department of Transportation, and Federal Highway Administration, will replace the historic 7th Street Bridge over the Tuolumne River in order to correct structural and hydraulic deficiencies, increase the capacity of the 7th Street corridor, and to improve safety for vehicles, bicycles, and pedestrians, and

WHEREAS, the 7th Street Bridge Replacement Project (Project) will have direct impacts on the APN 102-016-003 Tuolumne River Regional Park (TRRP) Gateway parcel as shown on the **attached** 7th Street Right-Of-Way **Exhibit**, Airspace Easement Plat and Legal, and Roadway Easement Plat and Legal, and

WHEREAS, this parcel is jointly owned by the County, City of Modesto, and City of Ceres and two areas of this parcel will be impacted, and

WHEREAS, the first is an area to the east of the existing 7th Street Bridge in which the new bridge will expand to the east and have both aerial and surface impacts to the TRRP parcel underneath the new bridge, and

WHEREAS, the second is an area near Tuolumne Boulevard and west of the existing 7th Street Bridge in which the new bridge will expand west and have both aerial and surface impacts to the adjacent TRRP parcel, and

WHEREAS, this item was heard by the TRRP Citizens Advisory Committee on January 20, 2021, and by the TRRP Joint Powers Association Commission on February

10, 2021, which both provided conceptual approvals of the 7th Street Bridge Replacement Project Impacts, and

WHEREAS, there are development restrictions on the property due to grant funding obtained through California State Parks, and

WHEREAS, the Project was presented to California State Parks through the Office of Grants and Local Services (OGALS) and since the Project has a Class I bike trail on the west side of the new bridge there is no negative impact to the park, and

WHEREAS, OGALS issued a letter to the City on March 11, 2022, in which they determined that the Project would not be considered a conversion of park land under the Land and Water Conservation Fund (LWCF) guidelines, and

WHEREAS, the Project will not need to purchase replacement park land to mitigate the impacts to the park because there are no negative impacts and OGALS has indicated that since construction staging could impact the park temporarily they will provide the Project with a temporary non-conforming use approval during Construction, and

WHEREAS, following City Council approval, the County will seek Council approvals from the remaining two joint owners of the TRRP Gateway Parcel (City of Ceres and Stanislaus County),

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the proposed airspace and roadway easements within APN 102-016-003 Tuolumne River Regional Park Gateway parcel necessary to construct the 7th Street Bridge Replacement Project.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 10th day of May, 2022, by Councilmember Kenoyer, who moved its adoption, which motion being duly seconded by Councilmember Wright, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Escutia-Braaton, Kenoyer, Madrigal, Ricci, Wright, Mayor Zwahlen

NOES: Councilmembers: None

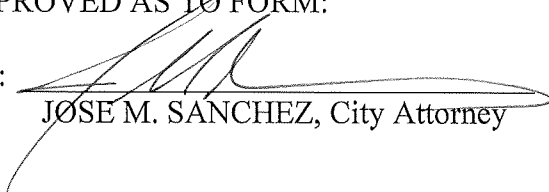
ABSENT: Councilmembers: None

ATTEST:   
DIANE NAYARES-PEREZ, CMC,  
City Clerk

(SEAL)

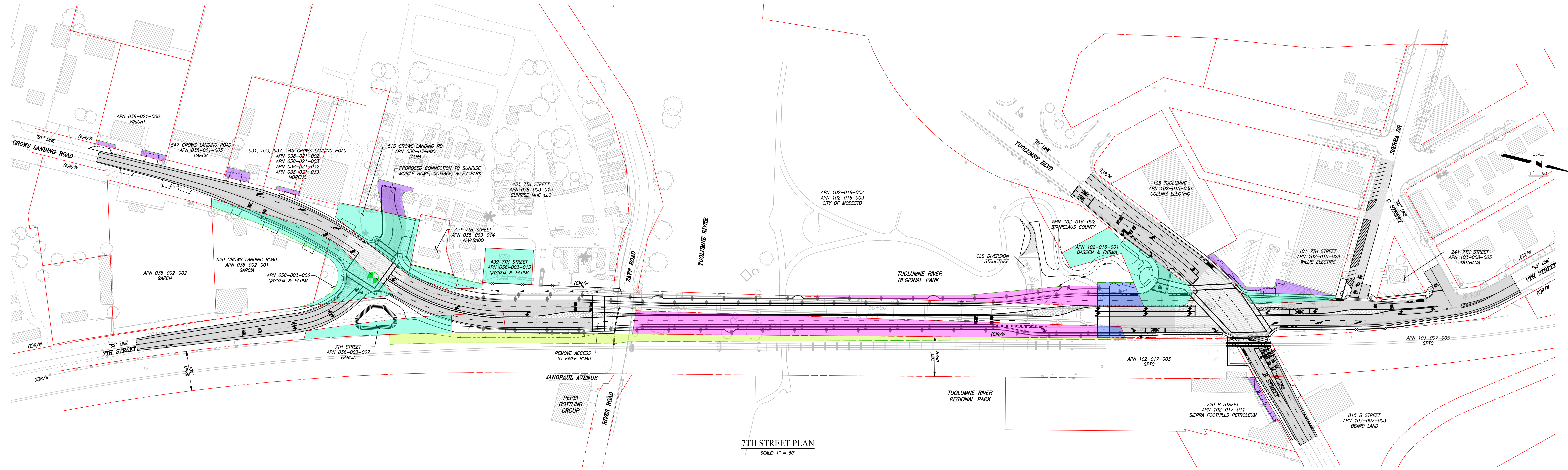
APPROVED AS TO FORM:

BY:

  
JOSE M. SANCHEZ, City Attorney

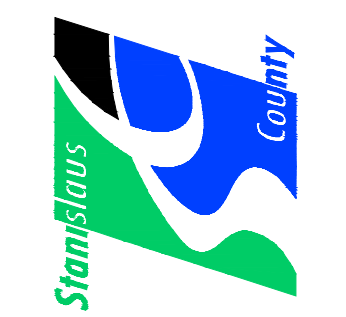
### LEGEND

- EXISTING COUNTY RIGHT OF WAY
- EXISTING CITY RIGHT OF WAY
- EXISTING UPRR RIGHT OF WAY
- PROPOSED RIGHT OF WAY
- TEMPORARY CONSTRUCTION EASEMENT
- SIGNALIZE INTERSECTION
- PROPOSED RIGHT OF WAY
- TEMPORARY CONSTRUCTION EASEMENT
- PROPOSED AIRSPACE EASEMENT
- PROPOSED ROADWAY EASEMENT
- UPRR RIGHT OF WAY CONSTRUCTION WORK AREA

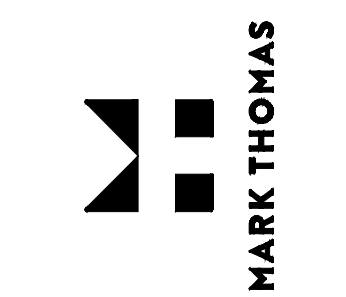


NO.	DESCRIPTIONS	DATE	APPROVED

**STANISLAUS COUNTY**  
 DEPARTMENT OF PUBLIC WORKS  
 ENGINEERING AND OPERATIONS DIVISION  
 1716 MORGAN ROAD - MODESTO, CA 95338



RIGHT OF WAY EXHIBIT  
 IMPROVEMENT PLANS FOR:  
 7TH STREET BRIDGE  
 REPLACEMENT PROJECT  
 STANISLAUS COUNTY, CALIFORNIA



JOB NO. \_\_\_\_\_  
 DATE \_\_\_\_\_  
 DR. BY \_\_\_\_\_  
 CK. BY \_\_\_\_\_  
 SURVEY \_\_\_\_\_  
 CONST. \_\_\_\_\_  
 HOZ. SCALE: \_\_\_\_\_  
 VERT. SCALE: \_\_\_\_\_

SHEET NUMBER  
**1**  
 OF 1 SHEETS



**65% DESIGN**  
 CALL BEFORE YOU DIG

Job: 15-002 - 1500m  
 A:\Data - 15-002-0101\1500m - 7th St Bridge Replacement\1500m - 15-Updated RW Plans Exhibit (REV) 15-01.dwg  
 Date: 02/21/2016 10:45:00 AM  
 User: jk  
 Plot Date: 02/21/2016 10:45:00 AM  
 Plot User: jk

**EXHIBIT "A"**  
**AIRSPACE EASEMENT**  
**LEGAL DESCRIPTION**

All that real property situated in Stanislaus County, State of California, being a portion of Sections 32 and 33, Township 3 South, Range 9 East, Mount Diablo Base & Meridian, and described in the GRANT DEED to County of Stanislaus, a political corporation of the State of California, City of Modesto, a municipal corporation of the State of California, and the City of Ceres, a municipal corporation of the State of California, recorded May 22, 1996 in Document Number 96-0040771-00, Official Records of Stanislaus County, more particularly described as:

**PARCEL 1**

**Commencing** at a 2" Brass Disc identified as #2224 as shown on the AMENDED CITY OF MODESTO RECORD OF SURVEY G.P.S. CONTROL NETWORK, filed March 30, 1995 in BOOK 22 OF SURVEYS AT PAGE 51, Official Records of Stanislaus County, which bears South 12°46'40" West. 4739.30 feet from a 2" Brass Disc identified as #2324 as shown on said RECORD OF SURVEY; thence North 14°10'21" East, 853.94 feet to the westerly right of way of 7<sup>th</sup> Street Bridge as shown on County Survey No. 293, dated October 6, 1908 and as shown on that certain STATE OF CALIFORNIA HIGHWAY MAP dated December 14, 1912 and the **Point of Beginning**; thence along said westerly right of way of 7<sup>th</sup> Street Bridge, North 11°56'47" West, 832.28 feet; thence leaving said westerly right of way of 7<sup>th</sup> Street Bridge, South 76°09'36" East, 50.00 feet; thence South 13°50'24" East 83.34 feet; thence South 19°15'32" East 238.25 feet; thence South 13°50'24" East, 511.30 feet to said westerly right of way of 7<sup>th</sup> Street Bridge and the **Point of Beginning**.

Containing 15,981 square feet or 0.37 acres, more or less.

**PARCEL 2**

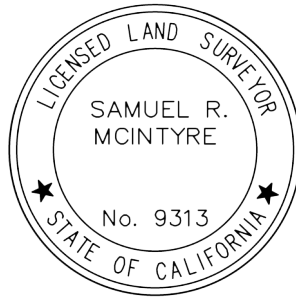
**Commencing** at a 2" Brass Disc identified as #2224 as shown on the AMENDED CITY OF MODESTO RECORD OF SURVEY G.P.S. CONTROL NETWORK, filed March 30, 1995

in BOOK 22 OF SURVEYS AT PAGE 51, Official Records of Stanislaus County, which bears South  $12^{\circ}46'40''$  West, 4739.30 feet from a 2" Brass Disc identified as #2324 as shown on said RECORD OF SURVEY; thence North  $10^{\circ}07'14''$  West, 528.33 feet to the easterly right of way of 7<sup>th</sup> Street Bridge, as shown on said County Survey No. 293 and on said STATE OF CALIFORNIA HIGHWAY MAP, and the **Point of Beginning**; thence along said easterly right of way of 7<sup>th</sup> Street Bridge, North  $11^{\circ}56'47''$  West, 1159.17 feet; thence leaving said easterly right of way of 7<sup>th</sup> Street Bridge, North  $76^{\circ}09'36''$  West, 30.61 feet to a point on the westerly right of way of Southern Pacific Railroad as shown on that certain RECORD of SURVEY, filed April 10, 1998 in Volume 24 of Surveys at Page 38, Official Records of Stanislaus County; thence along said westerly right of way of Southern Pacific Railroad, South  $13^{\circ}20'40''$  East, 1167.05 feet; thence leaving said westerly right of way of Southern Pacific Railroad, South  $84^{\circ}21'48''$  East, 56.40 feet to said easterly right of way of 7<sup>th</sup> Street Bridge and the **Point of Beginning**.

Containing 52,100 square feet or 1.20 acres, more or less.

The basis of bearings for this description is the bearing between published monument #2224 & #2324, as shown on the AMENDED CITY OF MODESTO RECORD OF SURVEY G.P.S. CONTROL NETWORK, filed March 30, 1995 in BOOK 22 OF SURVEYS AT PAGE 51, Official Records of Stanislaus County, having a bearing of South  $12^{\circ}46'40''$  West. Grid distances shown are in US Survey feet, divide the distances shown above by 0.99993 to obtain ground level distances.

This real property description has been prepared at Mark Thomas, by me, or under my direction, in conformance with the Professional Land Surveyors Act.



Sam McIntyre, LS 9313

3/11/2022

Date

**LEGEND**

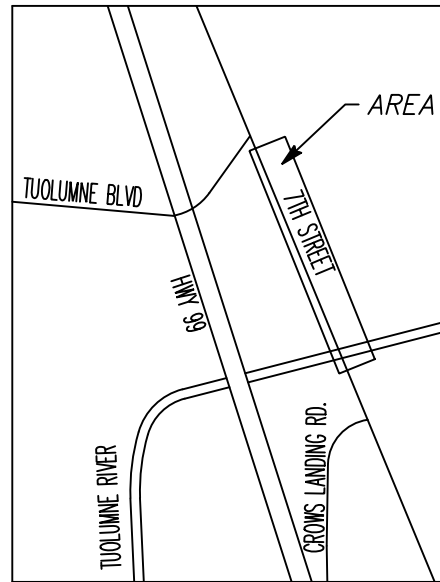
PORTION OF SECTIONS 32,33  
T3S, R9E M.D.M.

- POB POINT OF BEGINNING
- POC POINT OF COMMENCEMENT
- FOUND MONUMENT AS NOTED
- DIMENSION POINT
- ▨ PARCEL TO BE TRANSFERRED
- O.R OFFICIAL RECORD OF STANISLAUS COUNTY
- EXISTING EASEMENT LINE

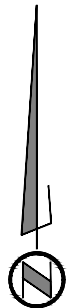


THE BASIS OF BEARINGS FOR THIS SURVEY IS THE BEARING BETWEEN PUBLISHED MONUMENT #2224 & #2324, AS SHOWN ON THE AMENDED CITY OF MODESTO RECORD OF SURVEY GPS CONTROL NETWORK RECORDED IN BOOK 22 OF SURVEYS AT PAGE 51, OFFICIAL RECORDS OF STANISLAUS COUNTY, AND HAVING A BEARING OF SOUTH 12° 46' 40" WEST. THE COMBINED SCALE FACTOR FOR THIS SURVEY IS 0.99993. DIVIDE DISTANCES SHOWN BY 0.99993 TO OBTAIN GROUND DISTANCES.

VICINITY MAP  
(NOT TO SCALE)



AREA OF DESCRIPTION



**LINE TABLE**

- L1 N11°56'47"W 832.28'
- L2 S76°09'36"W 50.00'
- L3 S13°50'24"E 83.34'
- L4 S19°15'32"E 238.25'
- L5 S13°50'24"E 511.30'
- L6 N11°56'47"W 1159.17'
- L7 N76°09'36"E 30.61'
- L8 S13°20'40"E 1167.05'
- L9 S84°21'48"W 56.40'

SHEET 1 OF 2



**MARK THOMAS**

Scale: N.T.S.  
 Date March 2021  
 Drawn By SK  
 Checked By SRM

**Exhibit B**  
**Airspace Easement**  
 APN 102-016-003  
 Plat to Accompany Legal Description  
 In the City of Modesto  
 Stanislaus County, California

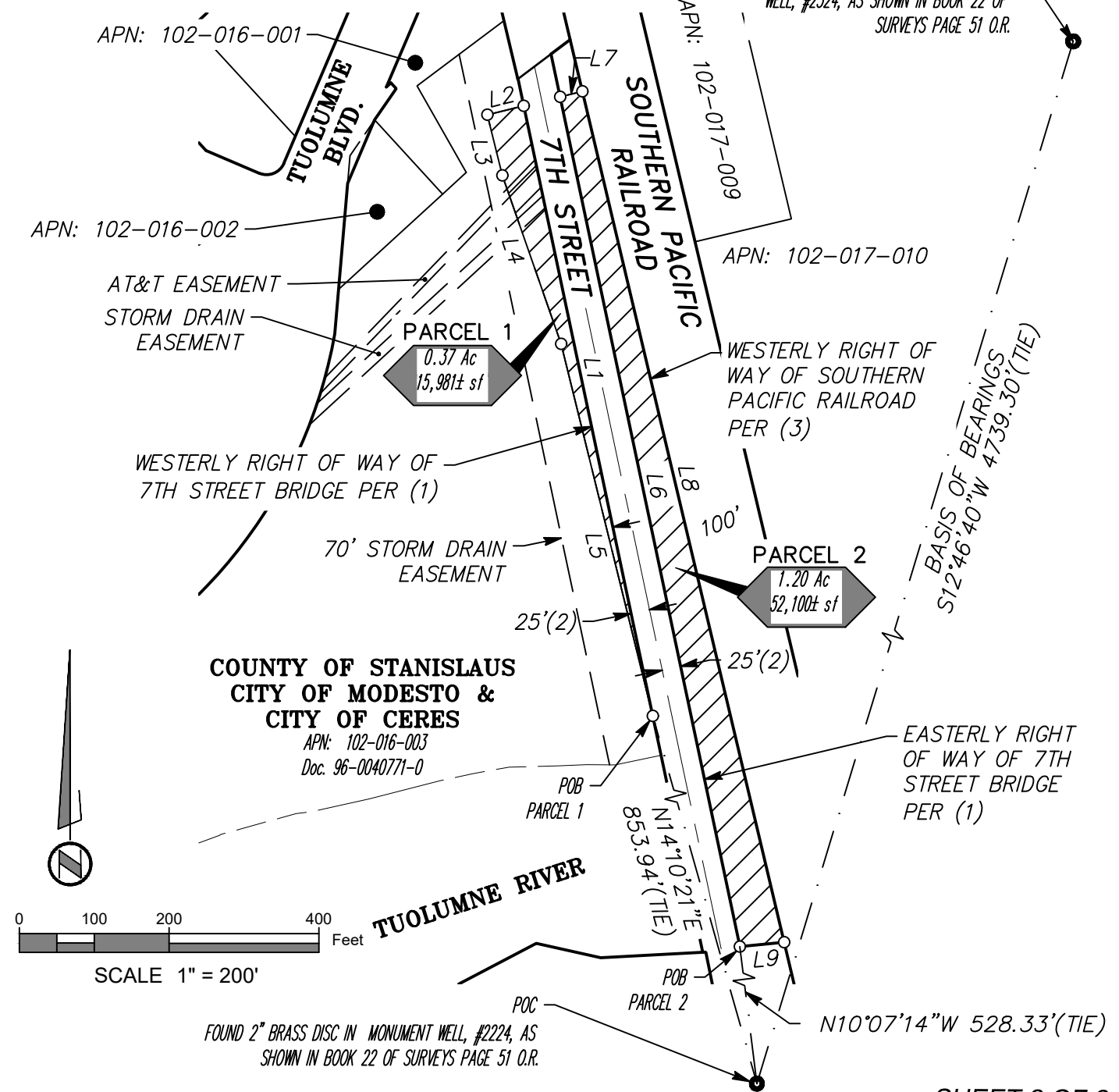


**REFERENCES**

- (1) CALTRANS STATE HIGHWAY MAP DATED 12-04-1912
- (2) COUNTY SURVEY NO.293 DATED OCTOBER 6, 1908
- (3) VOL. 24 OF SURVEYS, AT PG. 38 O.R.

PORTION OF SECTIONS 32,33  
T3S, R9E M.D.M.

FOUND 2" BRASS DISC IN MONUMENT WELL, #2324, AS SHOWN IN BOOK 22 OF SURVEYS PAGE 51 O.R.



SHEET 2 OF 2



**MARK THOMAS**

Scale: 1" = 200'  
Date March 2021  
Drawn By SK  
Checked By SRM

**Exhibit B**  
**Airspace Easement**  
**APN 102-016-003**  
**Plat to Accompany Legal Description**  
**In the City of Modesto**  
**Stanislaus County, California**



**EXHIBIT "A"**  
**RIGHT-OF-WAY-DEDICATION**  
**LEGAL DESCRIPTION**

All that real property situated in Stanislaus County, State of California, being a portion of Sections 32, Township 3 South, Range 9 East, Mount Diablo Base & Meridian, and described in the GRANT DEED to County of Stanislaus, a political corporation of the State of California, City of Modesto, a municipal corporation of the State of California, and the City of Ceres, a municipal corporation of the State of California, recorded May 22, 1996 in Document Number 96-0040771-00, Official Records of Stanislaus County, more particularly described as:

**PARCEL 1:**

**Commencing** at a 2" Brass Disc identified as #2224 as shown on the AMENDED CITY OF MODESTO RECORD OF SURVEY G.P.S. CONTROL NETWORK, filed March 30, 1995 in BOOK 22 OF SURVEYS AT PAGE 51, Official Records of Stanislaus County, which bears South 12°46'40" West, 4739.30 feet from a 2" Brass Disc identified as #2324 as shown on said RECORD OF SURVEY; thence North 13°04'25" East, 1685.90 feet to the westerly right of way of 7<sup>th</sup> Street Bridge as shown on County Survey No.293 dated October 6, 1908 and as shown on that certain STATE OF CALIFORNIA HIGHWAY MAP dated December 14<sup>th</sup>, 1912 and the **Point of Beginning**; thence along said westerly right of way of 7<sup>th</sup> Street Bridge, North 11°56'47" West, 36.79 feet; thence leaving said westerly right of way of 7<sup>th</sup> Street Bridge, South 53°06'36" West, 0.28 feet to the westerly right of way of 7<sup>th</sup> street as shown on that certain RECORD of SURVEY, filed April 10, 1998 in Volume 24 of Surveys at Page 38, Official Records of Stanislaus County; thence along said westerly right of way of 7<sup>th</sup> Street, North 13°20'40" West, 80.00 feet; thence leaving said westerly right of way of 7<sup>th</sup> Street and along the North line of said GRANT DEED, South 53°06'36" West, 65.91 feet; thence leaving said North line, South 13°50'24" East 90.85 feet; thence North 76°09'36" East, 59.00 feet, to the westerly right of way of 7<sup>th</sup> Street Bridge and the **Point of Beginning**.

Parcel 1 Containing 6,227 square feet or 0.14 acres, more or less.

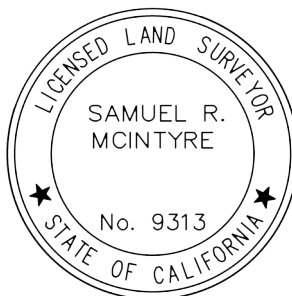
**PARCEL 2:**

**Commencing** at a 2" Brass Disc identified as #2224 as shown on the AMENDED CITY OF MODESTO RECORD OF SURVEY G.P.S. CONTROL NETWORK, filed March 30, 1995 in BOOK 22 OF SURVEYS AT PAGE 51, Official Records of Stanislaus County, which bears South 12°46'40" West. 4739.30 feet from a 2" Brass Disc identified as #2324 as shown on said RECORD OF SURVEY; thence North 11°22'30" East, 1687.31 feet to the easterly right of way of 7<sup>th</sup> Street Bridge as shown on said County Survey No. 293, and said STATE OF CALIFORNIA HIGHWAY MAP, and the **Point of Beginning**; thence along said easterly right of way of 7<sup>th</sup> Street Bridge, North 11°56'47" West, 58.40 feet to a point on the southerly line of 7<sup>th</sup> Street as shown on said RECORD of SURVEY filed in Volume 24 of Surveys at Page 38; thence along said southerly line, North 53°06'36" East, 31.84 feet to the westerly right of way of Southern Pacific Railroad, as shown on said RECORD of SURVEY filed in Volume 24 of Surveys at Page 38; thence along said westerly right of way of Southern Pacific Railroad, South 13°20'40" East, 70.83 feet; thence leaving said westerly right of way of Southern Pacific Railroad, South 76°09'36" West, 30.61 feet to said easterly line of 7<sup>th</sup> Street Bridge and the **Point of Beginning**.

Parcel 2 Containing 1,927 square feet or 0.04 acres, more or less.

The basis of bearings for this description is the bearing between published monument #2224 & #2324, as shown on the AMENDED CITY OF MODESTO RECORD OF SURVEY G.P.S. CONTROL NETWORK, filed March 30, 1995 in BOOK 22 OF SURVEYS AT PAGE 51, Official Records of Stanislaus County, having a bearing of South 12°46'40" West. Grid distances shown are in US Survey feet, divide the distances shown above by 0.99993 to obtain ground level distances.

This real property description has been prepared at Mark Thomas, by me, or under my direction, in conformance with the Professional Land Surveyors Act.



Sam McIntyre, LS 9313

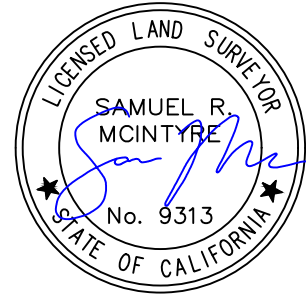
3/11/2022

Date

**LEGEND**

- POB POINT OF BEGINNING
- POC POINT OF COMMENCEMENT
- FOUND MONUMENT AS NOTED
- DIMENSION POINT
- ▨ PARCEL TO BE TRANSFERRED
- O.R OFFICIAL RECORD OF STANISLAUS COUNTY
- EXISTING EASEMENT LINE

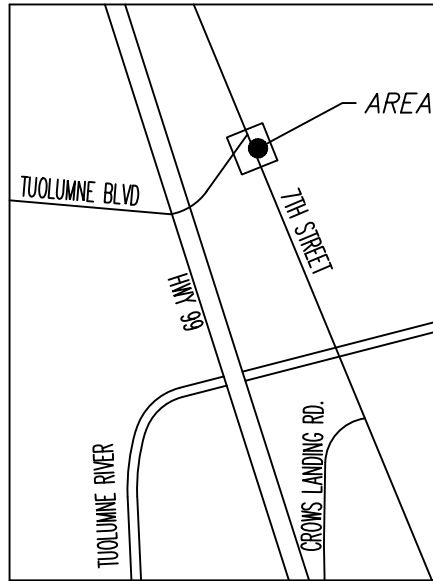
PORTION OF SECTION 32  
T3S, R9E M.D.M.



**LINE TABLE**

- L1 N11°56'47"W 58.40'
- L2 N53°06'36"E 31.84'
- L3 S13°20'40"E 70.83'
- L4 S76°09'36"W 30.61'
- L5 N11°56'47"W 36.79'
- L6 S53°06'36"W 0.28'
- L7 N13°20'40"W 80.00'
- L8 S53°06'36"W 65.91'
- L9 S13°50'24"E 90.85'
- L10 N76°09'36"E 59.00'

VICINITY MAP  
(NOT TO SCALE)



THE BASIS OF BEARINGS FOR THIS SURVEY IS THE BEARING BETWEEN PUBLISHED MONUMENT #2224 & #2324, AS SHOWN ON THE AMENDED CITY OF MODESTO RECORD OF SURVEY GPS CONTROL NETWORK RECORDED IN BOOK 22 OF SURVEYS AT PAGE 51, OFFICIAL RECORDS OF STANISLAUS COUNTY, AND HAVING A BEARING OF NORTH 12° 46' 40" EAST. THE COMBINED SCALE FACTOR FOR THIS SURVEY IS 0.99993. DIVIDE DISTANCES SHOWN BY 0.99993 TO OBTAIN GROUND DISTANCES.

SHEET 1 OF 2



**MARK THOMAS**

Scale: 1" = 100'  
 Date March 2021  
 Drawn By SK  
 Checked By SRM

**Exhibit B**  
**Right-Of-Way Dedication**  
 APN 102-016-003  
 Plat to Accompany Legal Description  
 In the City of Modesto  
 Stanislaus County, California



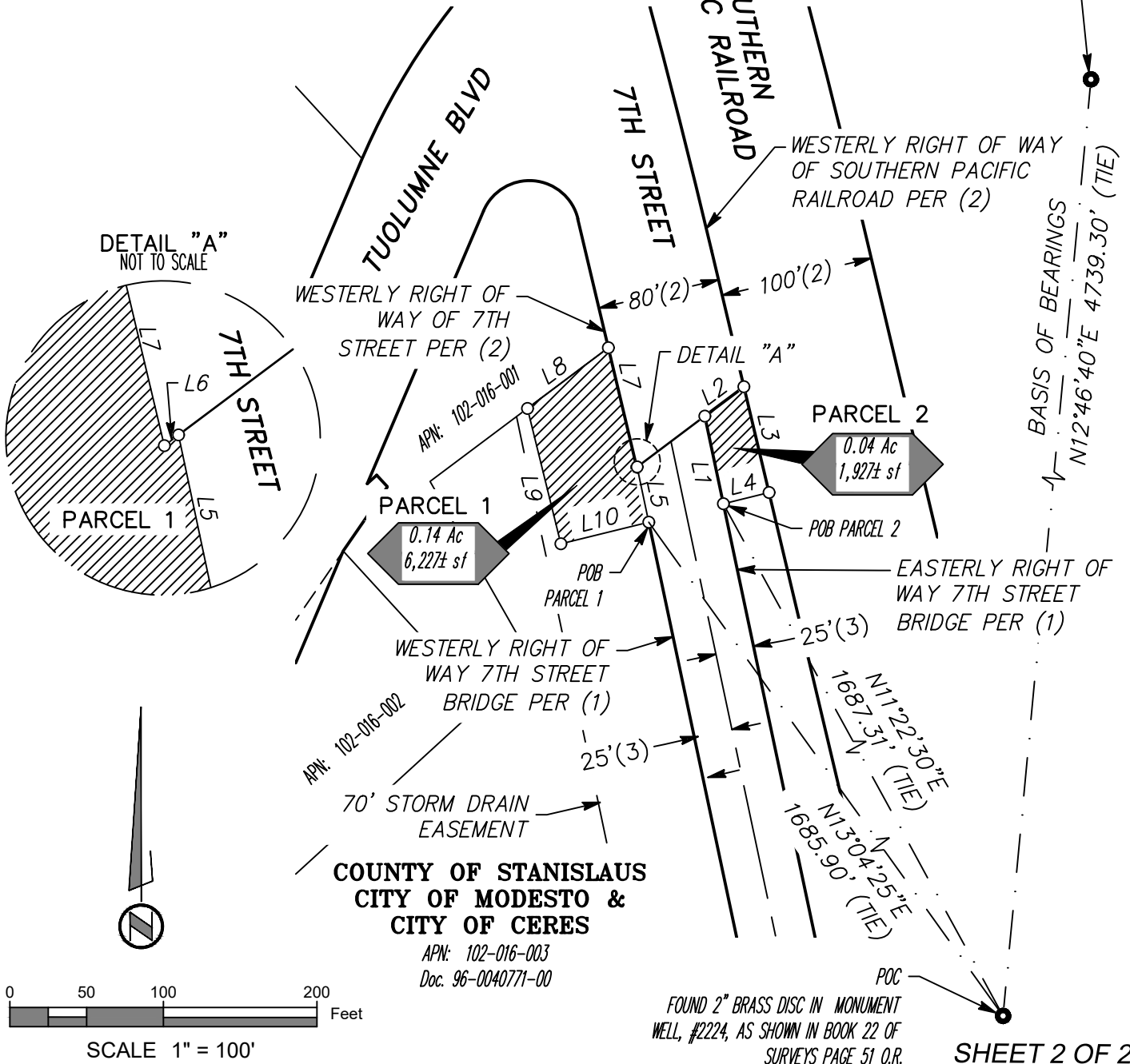
**REFERENCES**

- (1) CALTRANS STATE HIGHWAY MAP T3S, R9E M.D.M. DATED DECEMBER 14, 1912
- (2) VOL. 24 OF SURVEYS, AT PG. 38 O.R.
- (3) STANISLAUS COUNTY SURVEY NO. 293

**PORTION OF SECTION 32**

T3S, R9E M.D.M.

FOUND 2" BRASS DISC IN MONUMENT WELL, #2324, AS SHOWN IN BOOK 22 OF SURVEYS PAGE 51 O.R.



**MARK THOMAS**

Scale: 1" = 100'  
 Date March 2021  
 Drawn By SK  
 Checked By SRM

**Exhibit B**  
**Right-Of-Way Dedication**  
 APN 102-016-003  
 Plat to Accompany Legal Description  
 In the City of Modesto  
 Stanislaus County, California



**MODESTO CITY COUNCIL  
RESOLUTION NO. 2022-219**

**RESOLUTION APPROVING A COOPERATIVE AGREEMENT BETWEEN THE CITY OF MODESTO AND STANISLAUS COUNTY FOR THE AIRPORT NEIGHBORHOOD ACTIVE TRANSPORTATION CONNECTIVITY AND SAFETY PROJECT, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE AGREEMENT, AND APPROVING ENHANCED INFRASTRUCTURE AND ASSOCIATED COSTS FOR PROJECT DEVELOPMENT WITHIN CITY JURISDICTION**

WHEREAS, the Airport Neighborhood is geographically split between the City of Modesto and Stanislaus County, and is considered a disadvantaged community that lacks appropriate pedestrian facilities; and

WHEREAS, many streets in the Airport Neighborhood do not have sidewalks leading to unsafe conditions for the many school children and parents who walk in the neighborhood, and this project will result in new sidewalks, bikeways, and various safety improvements being built that contribute toward a safer environment for non-motorized travel; and

WHEREAS, on July 24, 2018, Stanislaus County applied to the State of California Department of Transportation (Caltrans) in request for Active Transportation Program (ATP) Cycle 4 grants funds for the Project; and

WHEREAS, as part of the application the City committed to be a partner with the County and agreed to assume the responsibility for the ongoing operations and maintenance of the project improvements located within City limits; and

WHEREAS, on March 21, 2019, the County was notified that the project was included on the California Transportation Commission's (CTC) 2019 Active Transportation program (ATP) list of awarded projects; and

WHEREAS, this Stanislaus County led Project will be constructed using State of California and Local - Measure L funds which will be obtained, collected and administered by the County; and

WHEREAS, the Project as proposed includes construction of bicycle and pedestrian facilities only, and thus does not include new curb, gutter, storm drainage, water or sewer improvements; and

WHEREAS, the Project includes construction of detached sidewalk (with no curb and gutter); Class I, Class III, and Class IV bicycle facilities; 3.5-inch high speed cushion raised bicycle crossings; high visibility sidewalk crosswalk; curb bulb-outs for pedestrian/bicycle crossing; modified City standard Cobra lights for Class I bicycle path; and various other miscellaneous project components as shown in the Project plans; and

WHEREAS, the County is responsible for all phases of project design, and has retained Siegfried Engineering to design project improvements and prepare bid documents; and

WHEREAS, during construction, the City will inspect construction improvements located within City limits; and

WHEREAS, upon completion of construction, the County will transfer ownership of improvements within City limits to the City; and

WHEREAS, the project represents a \$6.1M investment in the Airport Neighborhood and at the same time, the County and City are investing in improving urban pocket areas and therefore there may be a disconnect in installing improvements that are not to city standards; and

WHEREAS, on April 4, 2022, the Economic Development Committee (EDC) recommended that the City use available funding (likely Measure L) to install city standard improvements to areas of the project within the City limits that do not include city standard improvements, which is exclusive to Empire Avenue, north of Tenaya Drive; and

WHEREAS, staff is recommending proceeding with this Airport Neighborhood Active Transportation Connectivity and Safety Project; and

WHEREAS, per the approved ATP grant application, a Cooperative Agreement between the City of Modesto and Stanislaus County for construction and ownership and long-term operation and maintenance of the Airport Neighborhood Active Transportation Connectivity and Safety Project is required.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves a Cooperative Agreement between the City of Modesto and Stanislaus County for the Airport Neighborhood Active Transportation Connectivity and Safety Project, and approving enhanced infrastructure and associated costs for project development within City jurisdiction.

BE IT FURTHER RESOLVED, that the City Manager, or his designee, is hereby authorized to execute the Agreement, in a form approved by the City Attorney.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 10th day of May, 2022, by Councilmember Kenoyer, who moved its adoption, which motion being duly seconded by Councilmember Wright, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Escutia-Braaton, Kenoyer, Madrigal, Ricci, Wright, Mayor Zwahlen

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST:   
DIANE NAYARES-PEREZ, CMC,  
City Clerk

(SEAL)

APPROVED AS TO FORM:

BY:   
JOSE M. SANCHEZ, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2022-220**

**RESOLUTION APPROVING AN AGREEMENT WITH WEST YOST ASSOCIATES, SACRAMENTO, CA, FOR ENGINEERING SERVICES FOR THE JENNINGS WELL TREATMENT IMPROVEMENTS PROJECT IN THE AMOUNT OF \$219,300 FOR THE IDENTIFIED SCOPE OF SERVICES, PLUS \$21,930 IN ADDITIONAL SERVICES, IF NEEDED, FOR A TOTAL AMOUNT NOT TO EXCEED \$241,230 AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE AGREEMENT**

WHEREAS, the Jennings Well provides potable water to the City's Jennings Wastewater Treatment Plant; and

WHEREAS, the Jennings Well has historically exceeded the secondary Maximum Contaminant Levels (MCLs) for chloride, manganese, sulfate, hardness (CaCO<sub>3</sub>), electrical conductance (EC) and total dissolved solids; and

WHEREAS, the City previously retained West Yost Associates to evaluate treatment or other available options and provide recommendations to improve potable water quality; and

WHEREAS, after reviewing the technical memorandum provided by West Yost Associates, staff recommends proceeding with a treatment system as recommended by the consultant; and

WHEREAS, the treatment system will replace the existing well pump, add a pressure tank, a water softener and a reverse osmosis unit; and

WHEREAS, in accordance with Modesto Municipal Code 8-3.204(a) Exceptions to Formal Bidding Requirements, this agreement is for professional services and, therefore, exempt from the bid requirement; and

WHEREAS, staff recommends approval of an agreement with West Yost Associates, of Sacramento, CA for Engineering Services for the Jennings Well Treatment Improvements Project.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves an agreement with West Yost Associates, of Sacramento, CA for Engineering Services for the Jennings Well Treatment Improvements Project in the amount of \$219,300, for the identified scope of services, plus \$21,930 in additional services, if needed, for a total not to exceed amount of \$241,230.

BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to execute the agreement in a form approved by the City Attorney.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 10th day of May, 2022, by Councilmember Kenoyer, who moved its adoption, which motion being duly seconded by Councilmember Wright, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Escutia-Braaton, Kenoyer, Madrigal, Ricci, Wright, Mayor Zwahlen

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST:   
DIANE NAYARES-PEREZ, CMC,  
City Clerk

(SEAL)

APPROVED AS TO FORM:

BY:   
JOSE M. SANCHEZ, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2022-221**

**RESOLUTION AMENDING THE FISCAL YEAR 2021/22 CAPITAL  
IMPROVEMENT PROGRAM BUDGET IN THE AMOUNT OF \$245,000 TO BE  
TRANSFERRED INTO THE PROJECT FROM WASTEWATER FUND  
RESERVES IN ORDER TO FULLY FUND THE JENNINGS WELL  
TREATMENT IMPROVEMENTS PROJECT**

WHEREAS, certain budgetary transactions are necessary in the amount of \$245,000, in order to fully fund the Jennings Well Treatment Improvements Project; and

WHEREAS, the Fiscal Year 2021/22 Capital Improvement Program Budget must be amended.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the amendment of the Fiscal Year 2021/22 Capital Improvement Program Budget in the amount of \$245,000.

BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to implement the provisions of this resolution.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 10th day of May, 2022, by Councilmember Kenoyer, who moved its adoption, which motion being duly seconded by Councilmember Wright, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Escutia-Braaton, Kenoyer, Madrigal, Ricci, Wright, Mayor Zwahlen

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST:   
DIANE NAYARÉS-PÉREZ, CMC,  
City Clerk

(SEAL)

APPROVED AS TO FORM:

BY:   
JOSE M. SANCHEZ, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2022-222**

**RESOLUTION APPROVING AN AGREEMENT WITH BROWN AND CALDWELL, INC., RANCHO CORDOVA, CA, FOR CONSTRUCTION SUPPORT SERVICES FOR GRAYSON WELL 69 (REPLACING WELL 274) IN THE AMOUNT OF \$160,348 FOR THE IDENTIFIED SCOPE OF SERVICES, PLUS \$16,035 IN ADDITIONAL SERVICES, IF NEEDED, FOR A TOTAL NOT TO EXCEED AMOUNT OF \$176,383 AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE AGREEMENT**

WHEREAS, the Grayson water service area was acquired from the Del Este Water Company in 1995 as part of the overall acquisition of Del Este's water system, where the City now operates and maintains two wells and storage tank No. 9 in the outlying service area of Grayson; and

WHEREAS, elevated nitrate concentrations have been a problem at Well 274, and a feasibility study completed in January 2015, addressed nitrate concentrations in Well 274 and recommended a replacement well, because the current well is relatively shallow and was installed in 1967; and

WHEREAS, on January 10, 2017, by Resolution No. 2017-18, Council approved an agreement with Hazen and Sawyer to provide hydrogeological and design services for Grayson Replacement Well 274; and

WHEREAS, On January 23, 2018 by Resolution No. 2018-46, Council awarded a construction contract to Maggiora Bros. for the Grayson Replacement Well 274 Project which constructed the subsurface improvements; and

WHEREAS, during the drilling of Well 274, staff was informed by the Department of Water Resources that well number 274 could not be re-used. New well numbers are required for replacement wells; therefore, the project became known as Grayson Well 69 (Replacing Well 274); and

WHEREAS, On May 7, 2019, by Resolution No. 2019-234, Council accepted the Well 274 (subsurface improvements) Project as complete; and

WHEREAS, on December 7, 2021, by Resolution 2021-473, Council awarded a construction contract to W.M. Lyles Co., Fresno, CA, in the amount of \$2,683,800 plus \$268,380 for contingency (if needed), for a total amount not to exceed \$2,952,180, for the Grayson Well 69 (Replacing Well 274) Project; and

WHEREAS, construction began in February 2022 for the Grayson Well 69 (Replacing Well 274) Project, and due to limited resources, combined with the technical nature of the Grayson Well 69 project, construction services are needed to supplement staffing resources; and

WHEREAS, staff is currently utilizing Brown & Caldwell (B&C) for construction services for a similar project: Well 71 (Replacing Well 267). Therefore, to assist with workload capacity limitations and project delivery efficiencies, staff is recommending the use of B&C for construction support services as outlined in the overall agreement; and

WHEREAS, in accordance with Modesto Municipal Code 8-3.204(a) Exceptions to Formal Bidding Requirements, the agreement with B&C is for professional services and, therefore, exempt from the bid requirement. In accordance with Administrative Directive 3.1 Selection Procedures for Professional Consultants who Provide Architectural & Engineering Services for Capital Projects, the Director at his direction, may secure a candidate firm if it is in the best interest of the City; and

WHEREAS, considering B&C is providing similar services for well project, and has rendered satisfactory services, there is efficiency in utilizing their resources, and

WHEREAS, staff recommends approval of a consultant agreement for construction support services with B&C.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves an Agreement with Brown & Caldwell, Inc., of Rancho Cordova, CA, for Construction Support Services for Grayson Well 69 (Replacing Well 274) in the amount of \$160,348 for the identified scope of services, plus \$16,035 in additional services, if needed, for a total not to exceed amount of \$176,383.

BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to execute the Agreement, in a form approved by the City Attorney.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 10th day of May, 2022, by Councilmember Kenoyer, who moved its adoption, which motion being duly seconded by Councilmember Wright, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Escutia-Braaton, Kenoyer, Madrigal, Ricci, Wright, Mayor Zwahlen

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST:   
DIANE NAYARES-PEREZ, CMC,  
City Clerk

(SEAL)

APPROVED AS TO FORM:

BY:   
JOSE M. SANCHEZ, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2022-223**

**RESOLUTION DECLARING THE COUNCIL’S DECISION TO FILL THE RECENT CITY COUNCIL VACANCY BY ELECTION DURING THE NOVEMBER 2022 GENERAL MUNICIPAL ELECTION WHEN THE VOTERS OF DISTRICT 4 ELECT A CANDIDATE TO A NEW FOUR-YEAR TERM STARTING IN 2022 AND ENDING IN 2026, PURSUANT TO CITY OF MODESTO CHARTER SECTION 702**

WHEREAS, On April 20, 2022, former Council Member Zoslocki submitted a letter of resignation, ending his term as Council Member effective 12:00 p.m. that day due to moving outside of his Council District, and

WHEREAS, former Council Member Zoslocki was first elected to the Council in November of 2013, re-elected to his seat in 2017, and his seat was extended by one (1) year when the City moved to even year elections in 2020. Former Council Member Zoslocki’s term is set to end in December 2022, after the swearing in of a new Council Member elected in the November 2022 election, and

WHEREAS, Modesto Charter Section 702, “Vacancies,” states that the if a vacancy in the office of Mayor or Council Member occurs, “the Council shall forthwith appoint a person to fill such vacancy,” however, “[i]n the event that the Council shall fail to fill a vacancy by appointment within thirty (30) days after such office has become vacant, it shall forthwith cause an election to be held to fill such vacancy,” and

WHEREAS, Modesto Charter Section 702 reads as follows:

“If a vacancy shall occur in the office of Mayor or Councilmember, the Council shall forthwith appoint a person to fill such vacancy. Said appointee shall possess such qualifications for eligibility as are set forth in Section 701 of this article and shall hold office until a successor is duly

elected and qualified. Such successor shall be chosen at the next regular municipal election, or as otherwise may be required by recall proceedings instituted involving the office of Mayor or a Councilmember.

In the event that the Council shall fail to fill a vacancy by appointment within thirty (30) days after such office shall have become vacant, it shall forthwith cause an election to be held to fill such vacancy.”

WHEREAS, Modesto Charter Section 702 states that if the Council fails to make an appointment within thirty (30) days after the office becomes vacant (by May 20, 2022), the Council shall call an election to fill the vacancy. In this case, deciding to have the voters select the person to fill the vacancy would result in the voters filling the District 4 vacancy in the November 2022 General Municipal Election by electing an individual to a new four (4) year term starting in 2022 and ending in 2026, and

WHEREAS, the next possible regularly scheduled election available to fill the vacancy would be the November 2022 election. The District 4 seat will already be on the ballot for a new term. Modesto Charter Section 302, “Procedure for Holding Elections,” states that “[u]nless otherwise provided by ordinances hereafter enacted, all elections shall be held in accordance with the provisions of the Elections Code of the State of California, as the same now exist or may hereafter be amended, for the holding of elections in general law cities, insofar as the same are not in conflict with this Charter.” The Charter is silent regarding the timing of a special election to fill a vacancy, so we look towards state law, and

WHEREAS, California Government Code section 36512(b)(1) states that if the Council calls a special election, “the special election shall be held on the next regularly

established election date not less than 114 days from the call of the special election.” This means that if the Council were to call an election to fill the vacancy on May 20, 2022 (after the 30 days), it could not hold the election before September 11, 2022. The Council would then look at the next regularly established election date, which according to Elections Code section 1000, would be the “first Tuesday after the first Monday in November,” which is this upcoming General Municipal Election on November 8, 2022, and

WHEREAS, on April 26, 2022, the Council held a special meeting to discuss the options on how to fill the Council vacancy and to provide the staff with direction. On a vote of 3-2, the Council provided staff with direction to allow the voters to fill the District 4 vacancy in the November 2022 General Municipal Election by electing an individual to a new four (4) year term starting in 2022 and ending in 2026, and

WHEREAS, this Resolution declares the Council’s decision to have the vacancy filled in the November 2022 General Municipal Election when the voters elect a candidate to a new term.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby decides to fill the recent City Council vacancy, created by former Council Member Zoslocki’s resignation, by election during the November 2022 General Municipal Election when the voters of District 4 elect a candidate to a new four (4) year term starting in 2022, and ending in 2026 pursuant to City of Modesto Charter Section 702.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 10th day of May, 2022, by Councilmember Wright, who moved its adoption, which motion being duly seconded by Councilmember Kenoyer, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Escutia-Braaton, Kenoyer, Wright, Mayor Zwahlen

NOES: Councilmembers: Madrigal, Ricci,

ABSENT: Councilmembers: None

ATTEST:   
DIANE NAYARES-PEREZ, CMC,  
City Clerk

(SEAL)

APPROVED AS TO FORM:

BY:   
JOSE M. SANCHEZ, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2022-224**

**RESOLUTION ACCEPTING PROJECT HOMEKEY 2.0 GRANT AWARD  
\$1,724,157 FOR THE PROJECT LOCATED AT 112 JAMES STREET,  
AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE  
THE RELATED AGREEMENTS**

WHEREAS, in July of 2020, the State of California launched a \$750 million program called “Project Homekey”, with the aim of helping local communities rapidly acquire hotels, motels, commercial buildings, and other creative properties in order to rapidly house people experiencing homelessness during the COVID-19 pandemic, and

WHEREAS, by December 29, 2020, the program had resulted in the acquisition of 94 projects statewide, representing 6,029 units of permanent housing for individuals experiencing homelessness, and

WHEREAS, given the success of “Homekey 1.0”, in January of 2021, Governor Newsom’s Fiscal Year 2021-22 budget included another \$1.4 Billion-dollar allocation for “Project Homekey 2.0” (Homekey 2.0) and a Notice of Funding Availability was released September 9, 2021, applications became available late September, and applications are being accepted on a rolling basis until funds are exhausted, and

WHEREAS, the mission of HomeKey 2.0 is to prevent homelessness and to make homelessness rare, brief, by rapidly re-housing individuals through the provision of coordinated, compassionate, and high-quality services, and

WHEREAS, during the 2021, strategic planning process conducted by the Stanislaus Community System of Care, the number one goal identified was to “Increase the availability of permanent housing for people experiencing homelessness,” and

WHEREAS, under Homekey, local entities in partnership with a co-applicant (City of Modesto) will acquire and rehabilitate a variety of housing types, including but not limited to hotels, motels, hostels, single-family homes, multifamily apartments, adult residential facilities, manufactured housing, and/or to convert commercial properties and other existing buildings to Permanent or Interim Housing for the Target Population, and

WHEREAS, Stanislaus Equity Partners in coordination Stanislaus County Affordable Housing Corporation, and Stanislaus County Behavioral Health and Recovery Services approached the City to partner on a Project Homekey grant for permanent supportive housing in Modesto, and

WHEREAS, STEP identified a newly constructed seven-unit apartment building already under construction and for sale located at 112 James Street;

WHEREAS, this project is designed to serve those who are homeless or chronically homeless and will result in 1 – One-bedroom, 4 – two-bedroom units, and 2 – three-bedroom apartment units., and

WHEREAS, in conformance with Administrative Directive 7.2 Grant Management, Council approved this grant application to Project Homekey on January 11, 2022 through Resolution 2022-028, and

WHEREAS, City staff submitted the application to the State of California on March 4, 2022, and on April 27, 2022 the City was notified of a project award of \$1,724,157 of Project Homekey Funds, and

WHEREAS, the James St, Apartments project is a seven unit, newly constructed complex that will provide permanent supportive housing for Stanislaus County BHRS

clients who are at risk or experiencing homelessness and is designed to serve those who are homeless or chronically homeless, and

WHEREAS, there is a huge need for funding for this population. Currently BHRS has housed 206 households in the community, and have approximately 300 households in our community who are ready for housing on their waitlist, and

WHEREAS, once a household is housed with permanent supportive housing, 98% of the households stay housed, and

WHEREAS, the project will remain affordable for this population for a minimum of fifty-five years, and

WHEREAS, the City and STEP will need to expend capital funds from the Project Homekey award within eight months of the date of award, and

WHEREAS, the project will need to be fully completed and occupied within twelve months, and

WHEREAS, the complex has been acquired, and should be fully occupied by June 30, 2022.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby accepts the Project Homekey 2.0 Grant Award of \$1,724,157 for the project located at 112 James Street.

BE IT FURTHER RESOLVED that the City Manager, or his designee, to execute the related agreements, in a form approved by the City Attorney, with the State of California and to take such other actions as are necessary to accept the grant.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 10th day of May, 2022, by Councilmember Madrigal, who moved its adoption, which motion being duly seconded by Councilmember Escutia-Braaton, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Escutia-Braaton, Kenoyer, Madrigal, Ricci, Wright, Mayor Zwahlen

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST:   
DIANE NAYARES-PEREZ, CMC,  
City Clerk

(SEAL)

APPROVED AS TO FORM:

BY:   
JOSE M. SANCHEZ, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2022-225**

**RESOLUTION RESCINDING RESOLUTION 2022-077 AND APPROVES A  
LOAN IN AN AMOUNT UP TO \$200,000 IN PERMANENT LOCAL HOUSING  
ALLOCATION (PLHA) FUNDS TO STANISLAUS EQUITY PARTNERS TO  
ASSIST WITH THE REHABILITATION OF 112 JAMES STREET, \$50,000 FOR  
STAFF ACTIVITY DELIVERY COSTS, AND AUTHORIZING THE CITY  
MANAGER OR HIS DESIGNEE TO EXECUTE THE AGREEMENTS**

WHEREAS, under Homekey, local entities in partnership with a co-applicant (City of Modesto) will acquire and rehabilitate a variety of housing types, including but not limited to hotels, motels, hostels, single-family homes, multifamily apartments, adult residential facilities, manufactured housing, and/or to convert commercial properties and other existing buildings to Permanent or Interim Housing for the Target Population, and

WHEREAS, in order to identify and assess, projects and developers eligible to meet the strict constraints for completion and occupancy, the City and County issued a joint Request for Information (RFI) on July 20, 2021 and this RFI targeted properties owners that The City and County are interested in sites that include, but are not limited to, hotel/motel properties, residential Single-Room Occupancy (SRO) hotels, multi-unit housing sites, and other properties that could be used for permanent housing, and

WHEREAS, the RFI was open until August 15, 2021 and received 9 local properties were interested in having their properties reviewed for eligibility, and

WHEREAS, as a Community Development Corporation, STEP works to empower Stanislaus residents with access to asset building opportunities through housing, small business services and affordable lending, so Stanislaus Equity Partners was formed with the support of several stakeholders and partners, including a feasibility study grant provided by the Stanislaus Community Foundation, and

WHEREAS, the James St, Apartments project is a seven unit, newly constructed complex that will provide permanent supportive housing for Stanislaus County BHRS clients who are at risk or experiencing homelessness, and

WHEREAS, individuals will be referred to the James St. Project through the Coordinated Entry System, and

WHEREAS, once a referral has been made Behavioral Health & Recovery Services (BHRS) will screen for eligibility, criteria will be; adults, older adults, transition age young adults with serious mental illness or children with severe emotional disorders and their families whom are homeless, chronically homeless or at risk of chronic homelessness, and

WHEREAS, BHRS will refer certified eligible applicants to Stanislaus Affordable Housing Corporation (STANCO) for the application process, BHRS housing staff will assist the applicant with the paperwork if necessary and all eligible tenant's total household income, at time of move-in, shall not exceed the 30 percent AMI limit for all Homekey assisted units, and

WHEREAS, to assist with the gap, the City approved a \$200,000 CDBG Grant to Stanislaus Equity Partners to assist with the acquisition costs of the project by Resolution 2022-077, and

WHEREAS, it has been determined that the project funding should change from CDBG Grant funding to PLHA Grant.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby rescinds Resolution 2022-077 and approves a loan to Stanislaus Equity Partners in an amount up to \$200,000 in Permanent Local Housing Allocation (PLHA)

Funds to assist with the rehabilitation of 112 James Street, \$50,000 for staff activity delivery costs.

BE IT FURTHER RESOLVED that the City Manager, or his designee, to authorizing the City Manager or his designee to execute the agreement with such changes as determined by the City Attorney.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 10th day of May, 2022, by Councilmember Madrigal, who moved its adoption, which motion being duly seconded by Councilmember Escutia-Braaton, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Escutia-Braaton, Kenoyer, Madrigal, Ricci, Wright, Mayor Zwahlen

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST:

  
DIANE NAYARES-PEREZ, CMC,  
City Clerk

(SEAL)

APPROVED AS TO FORM:

BY:

  
JOSE M. SANCHEZ, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2022-226**

**RESOLUTION RESCINDING RESOLUTION 2022-078 AND 2022-079 AND AMENDING THE FISCAL YEAR 2021-2022 MULTI-YEAR FUND BUDGET TO ESTABLISH A NEW PROJECT FOR THE HOMEKEY 2.0 PROGRAM TO BE FUNDED WITH HOMEKEY 2.0 AND PERMANENT LOCAL HOUSING ALLOCATION PROGRAM (PLHA) GRANTS AND AUTHORIZING THE CITY MANAGER OR HIS DESIGNEE, TO TAKE THE NECESSARY STEPS TO IMPLEMENT THE PROVISIONS OF THIS RESOLUTION**

WHEREAS, the City of Modesto has been selected to receive funding from the State of California Housing and Community Development Department (HCD) in partnership with Stanislaus Equity Partners (STEP) for the Homekey 2.0 Program, and

WHEREAS, the fiscal year 2021-2022 multi-year budget currently has this project budgeted with Community Development Block Grant (CDBG) Funding approved by Resolution 2022-078 and 2022-079, and

WHEREAS, the City originally proposed using CDBG Grant funding as a loan to Stanislaus Equity Partners to assist with property acquisition expense, it has been determined that the project funding source should change from CDBG Grant funding to PLHA Grant, and

WHEREAS, the project funding will include the Homekey 2.0 Program Grant funds totaling \$1,724,157, and \$200,000 in PLHA Grant funds for property acquisition and capital improvements and \$50,000 in PLHA funds for administration, and

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby amends the fiscal year 2021-2022 multi-year fund budget to rescind Resolutions 2022-78 and 2022-79 and establish a project for the Homekey 2.0 Program to be funded with HCD Homekey 2.0 Grant funds and PLHA Grant funds.

BE IT FURTHER RESOLVED that the City Manager or his designee is

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 May, 2022, by Councilmember Madrigal, who moved its adoption, which motion being duly seconded by Councilmember Escutia-Braaton, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Escutia-Braaton, Kenoyer, Madrigal, Ricci,  
Wright, Mayor Zwahlen

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST:   
DIANE NAYARRES-PEREZ, CMC,  
City Clerk

(SEAL)

APPROVED AS TO FORM:

BY:   
JOSE M. SANCHEZ, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2022-227**

**RESOLUTION ACCEPTING FUNDS FROM THE CALIFORNIA WATER AND  
WASTEWATER ARREARAGE PAYMENT PROGRAM (CWWAPP) FOR  
WASTEWATER ARREARAGE IN AN AMOUNT NOT TO EXCEED \$1,332,915, AND  
APPROVING PARTICIPATION IN THE CALIFORNIA DEPARTMENT OF  
COMMUNITY SERVICES AND DEVELOPMENT LOW INCOME HOUSEHOLD  
WATER ASSISTANCE PROGRAM (LIHWAP)**

WHEREAS, on March 4, 2020, Governor Newsom proclaimed a state of emergency due to the COVID-19 pandemic, issued Executive Order N-33-20 to require individuals to stay at home except as needed to maintain continuity of critical operations, issued Executive Order N-42-20 prohibiting discontinuation of water service indefinitely, and issued Executive Order N-60-20 that created a risk-based approach to reopening the economy, and

WHEREAS, in response to the economic conditions caused by the COVID-19 pandemic, the State established Assembly Bill No. 128 and amended by Senate Bill No. 129, which provides nearly \$1 billion to the State Water Resources Control Board to administer the California Water and Wastewater Arrearage Payment Program (CWWAPP) to reduce delinquent water and wastewater balances for customers experiencing financial hardships related to the economic impacts of the COVID-19 pandemic, and

WHEREAS, on March 8, 2022, Council approved Resolution No. 2022-141, accepting \$2,716,416 in funding received from the CWWAPP for water arrearages incurred during the COVID relief period of March 4, 2020 to June 15, 2021, and

WHEREAS, on March 8, 2022, with Resolution No. 2022-141 Council authorized the submission of an application to CWWAPP for the wastewater arrearage amount estimated at \$4,215,784; this initial estimate of \$4,215,784 was based on the total of all delinquent

wastewater arrearages in our Utility Billing system; upon preparation for submission of the application for wastewater arrearage funding, staff were required to compile delinquent wastewater balances due only during the COVID relief period of March 4, 2020 to June 15, 2021; when the application was submitted to the State on March 22, 2022 this balance was \$1,294,092, and

WHEREAS, the funding allows Wastewater utilities to expend up to three percent (3%), or up to \$1 million, whichever is less, for administrative costs the system incurs in applying for assistance or complying with Program requirements; for Modesto, this amount equals \$38,823 and the remaining funds of the \$1,332,915 received by the City must be applied as bill credits to customers within 60 days of receiving funds; the City will receive the wastewater arrearage funding in May, 2022, and

WHEREAS, as part of receiving this funding, the City must comply with the program requirements which include waiving customer late fees for any arrearage accrued during the COVID-19 pandemic bill relief period, notifying customers of the amount credited to their account, offering to enroll customers with remaining debt into a payment plan; and allowing customers 30 days to enroll in the payment plan, and

WHEREAS, the State of California Department of Community Services and Development is launching a new program in May 2022 called the Low-Income Household Waster Assistance Program (LIHWAP) and this is a program that City of Modesto residential utility customers will be eligible to apply for with the State of California, and

WHEREAS, the program provides assistance to eligible customers to pay their delinquent water and wastewater bill and California has been allocated \$116 million in one-time funding for this program established by Congress in December 2020, and

WHEREAS, the program will be open from May/June 2022 to August 31, 2023; while the State manages the program and its applications, the City may enroll as a Direct Payment partner and this will allow the City to directly receive the funds received for eligible customers as an Automatic Clearing House (ACH) payment to be applied to the customer's utility account for outstanding charges; eligibility is based on a monthly household income ranging from \$2,565 for a household of one (1) to \$7,102 for a household of ten (10); all qualified customers will be able to receive a one-time payment up to a maximum of \$2,000 and the benefit amount can cover the customer's past due balance, current charges, fees (including late charges), and taxes; the goal of the program is to prevent disconnection for non-payment or to restore service.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves accepting funds from the California Water and Wastewater Arrearage Payment Program (CWWAPP) for wastewater arrearage in an amount not to exceed \$1,332,915, and approves participation in the California Department of Community Services and Development Low Income Household Water Assistance Program (LIHWAP).

BE IT FURTHER RESOLVED that the City Manager, or his designee, is authorized to execute such agreement and take such actions as necessary to carry out the purpose of this Resolution.


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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 10th day of May, 2022, by Councilmember Wright, who moved its adoption, which motion being duly seconded by Councilmember Kenoyer, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Escutia-Braaton, Kenoyer, Madrigal, Ricci, Wright, Mayor Zwahlen

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST:   
DIANE NAYARES-PEREZ, CMC,  
City Clerk

(SEAL)

APPROVED AS TO FORM:

BY:   
JOSE M. SANCHEZ, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2022-228**

**RESOLUTION AMENDING THE FISCAL YEAR 2021-22 OPERATING PROGRAM BUDGET IN AN AMOUNT OF \$1,332,915 IN THE SEWER FUND (4210) TO RECOGNIZE GRANT REVENUE FROM THE STATE WATER RESOURCE BOARD – CALIFORNIA WATER AND WASTEWATER ARREARAGE PAYMENT PROGRAM OFFSETTING DELINQUENT ACCOUNT BALANCES FOR SEWER UTILITY ACCOUNTS**

WHEREAS, a financial analysis has been completed and it has been determined that a budget adjustment is required to the Annual Operating Budgets of the City of Modesto for Fiscal Year 2021-22.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves amending the Fiscal Year 2021-22 Annual Operating budget as shown in **Exhibit A**, which is **attached** hereto and incorporated by reference herein.

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 10th day of May, 2022, by Councilmember Wright, who moved its adoption, which motion being duly seconded by Councilmember Kenoyer, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Escutia-Braaton, Kenoyer, Madrigal, Ricci, Wright, Mayor Zwahlen

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST:   
DIANE NAYARES-PEREZ, CMC,  
City Clerk

(SEAL)

APPROVED AS TO FORM:

BY:   
JOSE M. SANCHEZ, City Attorney

**EXHIBIT A**

**FISCAL YEAR 2021-22**

**UTILITIES**

- A budget adjustment to the Fiscal Year 2021-22 Annual Operating Program Budget in the amount of \$1,332,915 in the Sewer Fund (4210) to recognize grant revenue for Wastewater Arrearage Payment Program offsetting delinquent account balances for Sewer Utility Accounts

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2022-229**

**RESOLUTION COMBINING THE CITY MANAGER’S DRAFT BUDGET AND THE MAYOR’S FINAL BUDGET MODIFICATIONS INTO THE PROPOSED BUDGET FOR FISCAL YEAR 2022-23, AND NOTICING A PUBLIC HEARING TO BE HELD JUNE 7, 2022 FOR COUNCIL’S CONSIDERATION AND ADOPTION OF THE FISCAL YEAR 2022-23 PROPOSED BUDGET AND RELATED ACTIONS**

WHEREAS, the Finance Committee heard the City Manager’s Draft Budget on April 19<sup>th</sup>, April 20<sup>th</sup>, and April 21<sup>st</sup> through a series of Budget Workshops, and

WHEREAS, the Finance Committee approved the City Manager’s Draft Budget with a 3-0 vote and approved the budget to be moved on to Council for final review and adoption, and

WHEREAS, the City’s Charter, Article XIII Section 1303 and Section 1304 requires that the Mayor has the opportunity to make any final budget modifications to the City Manager’s Draft Budget at least 30 days prior to the end of the fiscal year and adoption by City Council, and

WHEREAS, the Mayor has presented her modifications to the City Manager’s Draft Budget to City Council and has presented no changes and recommended that the Draft Budget be moved forward to Council as the City of Modesto’s Fiscal Year 2022-23 Proposed Budget for adoption consideration, and

WHEREAS, the City of Modesto’s Fiscal Year 2022-23 Proposed Budget will be inclusive of the City Manager’s Draft Budget and the Mayor’s Final Budget Modifications and will be heard at a public hearing scheduled to be held on June 7, 2022.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the combination of the City Manager’s Draft Budget as well as


the Mayor's Final Budget Modifications into the City of Modesto's Fiscal Year 2022-23 Proposed Budget and that a public hearing will be held on June 7, 2022 for the adoption of the Fiscal Year 2022-23 Proposed Budget.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 10th day of May, 2022, by Councilmember Wright, who moved its adoption, which motion being duly seconded by Councilmember Escutia-Braaton, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Escutia-Braaton, Kenoyer, Madrigal, Ricci, Wright, Mayor Zwahlen

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST:   
DIANE NAYARES-PEREZ, CMC,  
City Clerk

(SEAL)

APPROVED AS TO FORM:

BY:   
JOSE M. SANCHEZ, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2022-230**

**RESOLUTION ACCEPTING THE RESIGNATION OF LYNN DICKERSON  
FROM THE CITY OF MODESTO BLIGHT ABATEMENT ADVISORY  
COMMITTEE**

WHEREAS, Lynn Dickerson was appointed to serve as a member of the Blight Abatement Advisory Committee on April 13, 2021, by City Council Resolution 2021-124; and

WHEREAS, Lynn Dickerson tendered her resignation from the Blight Abatement Advisory Committee, effective March 16, 2022.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby accepts the resignation of Lynn Dickerson from the Blight Abatement Advisory Committee.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 24th day of May, 2022, by Councilmember Wright, who moved its adoption, which motion being duly seconded by Councilmember Escutia-Braaton, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Escutia-Braaton, Kenoyer, Madrigal, Ricci, Wright, Mayor Zwahlen

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST:   
DIANE NAYARES-PEREZ, CMC,  
City Clerk

(SEAL)

APPROVED AS TO FORM:

BY:   
JOSE M. SANCHEZ, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2022-231**

**RESOLUTION APPROVING THE APPOINTMENT OF MATTHEW  
SPECKMAN TO THE STANISLAUS ANIMAL SERVICES AGENCY  
ADVISORY COMMITTEE FOR A 2-YEAR TERM BEGINNING JUNE 1, 2022**

WHEREAS, the authority for the formation and operation of this Committee is set forth in the Joint Powers Agreement Establishing the Stanislaus Animal Services Agency (“SASA”) dated October 27, 2009, paragraph 3.3 (j) and Government Code section 6500. The SASA Board approved formation of this Committee at its meeting on September 15, 2011; and

WHEREAS, the Committee is established to protect and enhance the quality of life for animals and residents of Stanislaus County; and

WHEREAS, the Committee’s responsibilities include educating the community on animal care; public relations; and serving as a resource; and

WHEREAS, the purpose of the Stanislaus Animal Services Agency Advisory Committee members includes serving as an advisor to the SASA Board and Executive Director, promote public awareness of the Stanislaus Animal Services Agency, develop methods to promote adoption of animals at the shelter, develop methods to decrease the number of animals entering the shelter, and continue efforts to increase and encourage volunteer participation at the shelter; and

WHEREAS, the composition of this Committee shall be comprised of seven (7) members: six (6) members-Each member of the Stanislaus Animal Services Agency Board shall appoint a member to the Committee who shall reside in that member’s jurisdiction; and one (1) member who shall be a licensed veterinarian appointed by the SASA Board; and

WHEREAS, each SASA Board member shall recommend an individual for appointment to the Committee in accordance with its local rules, and then subject to the SASA Board's approval, and all Committee members shall serve a term of two (2) years, and may be re-appointed for a second term with the approval of the SASA Board.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the appointment of Matthew Speckman to the Stanislaus Animal Services Agency Advisory Committee for a 2-year term beginning June 1, 2022.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 24th day of May, 2022, by Councilmember Wright, who moved its adoption, which motion being duly seconded by Councilmember Escutia-Braaton, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Escutia-Braaton, Kenoyer, Madrigal, Ricci, Wright, Mayor Zwahlen

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST:   
DIANE NAYARES-PEREZ, CMC,  
City Clerk

(SEAL)

APPROVED AS TO FORM:

BY:   
JOSE M. SANCHEZ, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2022-232**

**RESOLUTION CONTINUING TO AUTHORIZE REMOTE  
TELECONFERENCE MEETINGS OF THE CITY OF MODESTO PURSUANT  
TO ASSEMBLY BILL 361**

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

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

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

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

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

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

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

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

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

WHEREAS, on September 28, 2021, the City Council adopted Resolution No. 2021-370 authorizing remote teleconference meetings pursuant to AB361 (Government Code section 54953(e)); and

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

WHEREAS, the City Council has considered the circumstances of the Governor’s state of emergency proclamation pursuant to Government Code section 8625, which remains active; and

WHEREAS, on March 8, 2022, the County of Stanislaus Board of Supervisors terminated the Declaration of a Local Health Emergency that was issued on March 11, 2020; and

WHEREAS, the Stanislaus County Public Health Services Agency still strongly recommends community members to maintain social distancing measures while in “any indoor public space” by staying six (6) feet apart; and

WHEREAS, the City Council, acting for itself and for the benefit of all of the City’s commissions, committees, and other bodies (collectively referred to as the “Legislative Bodies”), does hereby find that the Legislative Bodies shall continue to conduct their meetings without compliance with Government Code section 54953(b)(3), as authorized by Government Code section 54953(e), and that the Legislative Bodies shall continue to comply with the requirements to provide the public with access to the meetings as prescribed in Government Code section 54953(e)(2) as a consequence of the ongoing state of emergency and the continued social distancing measures required by local officials.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF MODESTO DOES HEREBY RESOLVE AS FOLLOWS:

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

Section 2. Consideration of State of Emergency. The City Council has considered the conditions of the state of emergency declared pursuant to Government Code section 8625, and determined that such emergency conditions continue to be present in the City.

Section 3. Continued Social Distancing Measures by State and Local Officials.

The City Council finds that the County of Stanislaus Health Officer’s recommended measures to promote social distancing remain in effect.

Section 4. Remote Teleconference Meetings. The City Council finds that the

conditions continue to exist pursuant to Government Code section 54953(e)(3) to allow Legislative Bodies to use teleconferencing to hold public meetings in accordance with Government Code section 54953(e)(2) to ensure members of the public have continued access to safely observe and participate in local government meetings.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 24th day of May, 2022, by Councilmember Kenoyer, who moved its adoption, which motion being duly seconded by Councilmember Wright, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Escutia-Braaton, Kenoyer, Madrigal, Ricci, Wright, Mayor Zwahlen

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST:   
DIANE NAYARES-PEREZ, CMC,  
City Clerk

(SEAL)

APPROVED AS TO FORM:

BY:   
JOSE M. SANCHEZ, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2022-233**

**RESOLUTION APPROVING THE FIRST AMENDMENT WITH TBWBH PROPS & MEASURES, SAN FRANCISCO, CA FOR CITY OF MODESTO PROFESSIONAL POLLING/PUBLIC OPINION RESEARCH SERVICES, INCREASING THE SCOPE OF SERVICES TO INCLUDE TASK 2 TO INCREASE THE AGREEMENT BY \$114,634 INCLUDING A 5% CONTINGENCY, FROM \$49,263 FOR A NEW ESTIMATED TOTAL NOT TO EXCEED AN AMOUNT OF \$163,897 AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE AMENDMENT**

WHEREAS, the City Council held a workshop on January 12, 2022 and directed staff to explore the possibility of obtaining contract services to conduct a public opinion/polling survey to gauge citizens response to a possible sales tax measure, and

WHEREAS, on January 20, 2022, the Purchasing Division issued an Informal Agreement (RFP 22-07) under 3 category codes (96100 Miscellaneous Services, No. 1 (Not Otherwise Classified), 96160 Public Opinion Surveys and 96200 Miscellaneous Services, No. 2 (Not Otherwise Classified), and

WHEREAS, by the closing of the Request for Proposal (RFP) on January 31, 2022, one hundred forty-eight vendors were notified of the bid opportunity, 23 downloaded the INF-RFP document and seven companies chose to respond, and

WHEREAS, an evaluation committee comprised of Finance Department, City Manager's Office and Information Technology Department staff evaluated the seven proposals, obtained reference checks, and determined the response from TBWBH Props & Measures to be responsive and responsible to the INF-RFP, and

WHEREAS, on February 22, 2022 the City Manager authorized and executed an Agreement with TBWBH Props and Measures to complete Task 1 of the INF-RFP in the amount of \$49,263, and

WHEREAS, Task 1 has been completed by TBWBH Props and Measures through completion of the public opinion/polling survey and the final presentation has been delivered to the Finance Committee, members of the Council, and citizens of Modesto, and

WHEREAS, on April 21<sup>st</sup> at the Budget Workshops, the Finance Committee requested that the City Manager prepare a measure for a one percent sales tax for Council consideration with a 3-0 vote, and

WHEREAS, in order develop appropriate objective information and education materials for citizens to be accurately informed about a potential one percent general sales tax measure, City staff is recommending that a First Amendment to the Agreement with TBWBH Props and Measures as part of INF-RFP 22-07 be completed in order for Task 2 to be carried out, and

WHEREAS, Task 2 will require the consultant to develop appropriate objective information and education materials for a potential general one percent sales tax measure in the form of brochures, mailers, and web content, and

WHEREAS, Task 2 will also require the consultant to provide advice as to the strategic use of different distribution, media outreach and technological/social media platforms, and

WHEREAS, the cost of the increase of the amendment in the amount of \$114,634 will be covered by existing expenditure budget within the City's General Fund, and

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the First Amendment with TBWBH Props & Measures, San Francisco, CA for City of Modesto Professional Polling/Public Opinion Research

Services, increasing the scope of services to include Task 2 to increase the agreement by \$114,634 including a 5% contingency, from \$49,263 for a new estimated total not to exceed an amount of \$163,897.

BE IT FURTHER RESOLVED, that the City Manager, or his designee, is hereby authorized to negotiate and execute the final terms of the Amendment with TBWBH Props & Measures, in a form approved by the City Attorney.


The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 24th day of May, 2022, by Councilmember Kenoyer, who moved its adoption, which motion being duly seconded by Councilmember Wright, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Escutia-Braaton, Kenoyer, Madrigal,  
Wright, Mayor Zwahlen

NOES: Councilmembers: None

RECUSE: Councilmembers: Ricci

ABSENT: Councilmembers: None

ATTEST:   
DIANE NAYARES-PEREZ, CMC,  
City Clerk

(SEAL)

APPROVED AS TO FORM:

BY:   
JOSE M. SANCHEZ, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2022-234**

**RESOLUTION APPROVING AN EQUIPMENT USE AND BROADCASTING AGREEMENT WITH CENTRAL VALLEY MEDIA CENTER FOR THE PURCHASE AND LEASE OF A TELVUE HYPERCASTER AIO B2000-4+ DIGITAL MEDIA BROADCAST SERVER FROM TELVUE CORPORATION, FOR AN AMOUNT OF \$33,236 PLUS \$3,325 IN CONTINGENCY (IF NEEDED) FOR A TOTAL AMOUNT NOT TO EXCEED \$36,560, AND AUTHORIZING THE CITY MANAGER TO NEGOTIATE AND EXECUTE THE FINAL TERMS OF THE AGREEMENT WITH CENTRAL VALLEY MEDIA MYTV26**

WHEREAS, MyTV26 is Modesto's public access station and serves the communities of Modesto and the surrounding Stanislaus County area, and

WHEREAS, MyTV26 provides a valuable telecommunications medium to the community in the form of a public access station and provides an opportunity for residents to create content and to have access to content created by others in the community, and

WHEREAS, MyTV26 is looking to partner in more meaningful ways with the various levels of local government in the community in order to enrich its broadcasting abilities, and

WHEREAS, the City of Modesto would be the first to formally partner with MyTV26 in an effort to both meet their goal to increase their reach across the local community to provide another means of delivery of messages and important information to its residents, and

WHEREAS, MyTV26 would like to enter into an agreement with the City of Modesto for the purchase of a broadcast server that would help it to expand its ability to be seen on multiple platforms and give the stations producers a larger audience for the

content they create and provide for much needed automatic “Closed Caption” and subtitle services, and

WHEREAS, MyTV26 currently uses proprietary software from TelVue Corporation to run its streaming and broadcasting services and the software is only compatible with TelVue branded broadcast server hardware, and

WHEREAS, based upon this information, the server that is recommended for purchase is a TelVue Hypercaster AIO B2000-4+ Digital Broadcast Server with a five-year service plan, and

WHEREAS, the City’s Administrative Directive 7.5 – Purchasing Policy provides that small purchases obtain three quotes unless an exception is granted by the Purchasing Manager that falls under the policy exception, and

WHEREAS, this purchase falls under the exception of sole source or sole brand due to TelVue Corporation being the original manufacturer and single-source of maintenance and support of the TelVue HyperCaster AIO B2000-4+ Digital Broadcaster Server which qualifies this purchase for the exception as defined, and

WHEREAS, an additional part of this agreement provides that MyTV26 will provide the City with 3 hours per month for one year of broadcast time on the station in addition to broadcasting completed City Council meetings after they have completed their live broadcast, and

WHEREAS, the City will make use of Public, Education, Government (PEG) Funds to pay for the broadcast server.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves an equipment use and broadcasting agreement with Central Valley

Media Center MyTV26 for the purchase and lease of a TelVue HyperCaster AIO B2000-4+ Digital Broadcast Server from TelVue Corporation, for an amount of \$33,236 plus \$3,324 in contingency for a total amount not to exceed \$36,560.

BE IT FURTHER RESOLVED, that the City Manager, or his designee, is hereby authorized to negotiate and execute the final terms of the agreement with Central Valley Media MyTV26, in a form approved by the City Attorney.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 24th day of May, 2022, by Councilmember Kenoyer, who moved its adoption, which motion being duly seconded by Councilmember Wright, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Escutia-Braaton, Kenoyer, Madrigal, Ricci, Wright, Mayor Zwahlen

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST:

  
DIANE NAYARES-PEREZ, CMC,  
City Clerk

(SEAL)

APPROVED AS TO FORM:

BY:

  
JOSE M. SANCHEZ, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2022-235**

**RESOLUTION AMENDING THE FISCAL YEAR 2021-22 ANNUAL  
OPERATING BUDGET TO INCREASE THE EXPENDITURE BUDGET IN THE  
PUBLIC, EDUCATION, AND GOVERNMENTAL FUND COST CENTER IN  
THE AMOUNT OF \$36,560 TO FUND THE PURCHASE OF THE SERVER AND  
AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO TAKE THE  
NECESSARY STEPS TO IMPLEMENT THE PROVISIONS OF THIS  
RESOLUTION**

WHEREAS, MyTV26 is Modesto’s public access station and serves the communities of Modesto and the surrounding Stanislaus County area, and

WHEREAS, MyTV26 provides a valuable telecommunications medium to the community in the form of a public access station and provides an opportunity for residents to create content and to have access to content created by others in the community, and

WHEREAS, MyTV26 is looking to partner in more meaningful ways with the various levels of local government in the community in order to enrich its broadcasting abilities, and

WHEREAS, MyTV26 would like to enter into an agreement with the City of Modesto for the purchase of a broadcast server that would help it to expand its ability to be seen on multiple platforms and give the stations producers a larger audience for the content they create and provide for much needed automatic “Closed Caption” and subtitle services, and

WHEREAS, the City will make use of Public, Education, Government (PEG) Funds to pay for the broadcast server, and

WHEREAS, budget amendments are necessary to implement this action.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves amending the Fiscal Year 2021-22 Annual Operating Budget in the amount of \$36,560 to the expenditure budget in the Public, Education and Government Fund Cost Center to fund the purchase of the server.


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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 24th day of May, 2022, by Councilmember Kenoyer, who moved its adoption, which motion being duly seconded by Councilmember Wright, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Escutia-Braaton, Kenoyer, Madrigal, Ricci, Wright, Mayor Zwahlen

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST:   
DIANE NAYARES-PEREZ, CMC,  
City Clerk

(SEAL)

APPROVED AS TO FORM:

BY:   
JOSE M. SANCHEZ, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2022-236**

**RESOLUTION AMENDING THE CITY'S COMMUNITY FACILITIES DISTRICT POLICIES AND PROCEDURES, AUTHORIZING THE CITY COUNCIL TO ESTABLISH INTER-FUND LOANS FROM THE GENERAL FUND UP TO \$450,000 FOR THE FORMATION OF FUTURE CITY COMMUNITY FACILITIES DISTRICTS; AND AUTHORIZING THE CITY MANAGER TO CARRY OUT THE NECESSARY BUDGET ADJUSTMENTS TO IMPLEMENT THE INTER-FUND LOANS FOR CFD FORMATIONS UP TO THE TOTAL AMOUNT OF \$450,000 TO IMPLEMENT THE ACTION AUTHORIZED BY COUNCIL**

WHEREAS, the Mello-Roos Community Facilities Act of 1982 (the Act) was adopted by the State of California as a method for financing capital facilities (infrastructure improvements) and/or public services associated with new developments, and

WHEREAS, Mello-Roos CFDs are formed to finance the construction, or acquisition of certain designated capital facilities (infrastructure) and/or to finance public services by levying special taxes included on the CFD and to date there are fifteen CFDs in the City of Modesto with several other in the works, and

WHEREAS, the City considers both developer or property-owner initiated applications requesting the formation of a CFD, and

WHEREAS, once formed a special tax is collected on properties within the CFD to finance eligible public facilities necessary to serve residential, commercial and/or industrial projects or CFDs may issue bonds to pay for large capital projects and those bonds are then repaid using revenue from the annual tax, and

WHEREAS, the City created policies and procedures for Formation, Annexation and Administration of Community Facilities Districts pursuant to the Provisions of the Act (CFD Policies and Procedures), and

WHEREAS, per the City's CFD Policies and Procedures, it is determined that the developer must make a deposit of \$64,500 to initiate the formation of a new CFD and that the advance deposits cover staff time, consultants, and legal costs as well as other costs associated with the CFD formation, and

WHEREAS, when a CFD is formed it can be formed in different ways to cover many different facilities. In a CFD where infrastructure is covered, the developer can decide to distribute costs through a pay-as-you-go fee, or seek a partnership with the City for an issuance of bonds for the generation of revenues to finance eligible public facilities. If bonds are issued, the proceeds may be used to reimburse the developer for advanced payment of the CFD formation costs, and

WHEREAS, in the last 24 months, staff has seen an increase in the developer and development inquiries, all of which require CFD formation and annexation, and

WHEREAS, in order to assist with development within the City, staff is proposing to allow the City Council to approve inter-fund loans from the General Fund for CFDs that will pursue bond financing.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves amending the City's Community Facilities Districts Policies and Procedures, authorizing the City Council to establish inter-fund loans from the General Fund up to \$450,000 for the formation of future City Community Facilities Districts.

BE IT FURTHER RESOVLED that the interest rates on such loans will be equal to the actual rate of return earned by the City's investment portfolio during the 12-month period immediately preceding the application submittal and shall be repaid within 5 years.


BE IT FURTHER RESOLVED, that the City Manager, or his designee, is hereby authorized to carry out the necessary budget adjustments to implement the inter-fund loans for CFD formations up the total amount of \$450,000 to implement the action authorized by Council.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 24th day of May, 2022, by Councilmember Kenoyer, who moved its adoption, which motion being duly seconded by Councilmember Wright, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Escutia-Braaton, Kenoyer, Madrigal, Ricci, Wright, Mayor Zwahlen

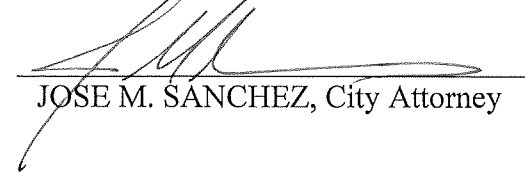
NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST:   
DIANE NAYARES-PEREZ, CMC,  
City Clerk

(SEAL)

APPROVED AS TO FORM:

BY:   
JOSE M. SANCHEZ, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2022-237**

**RESOLUTION APPROVING THE AWARD OF PROPOSAL AND AGREEMENT FOR COMMUNITY FACILITIES DISTRICTS (CFDs) ADMINISTRATION SERVICES TO GOODWIN CONSULTING GROUP, FOR A TWO-YEAR AGREEMENT WITH THREE ONE-YEAR EXTENSION OPTIONS, FOR AN ANNUAL ESTIMATED AMOUNT OF \$90,000 AND A TOTAL AMOUNT NOT TO EXCEED \$450,000 OVER FIVE YEARS, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE AGREEMENT**

WHEREAS, the City has determined that Community Facilities Districts (CFDs) and Assessment Districts (ADs) are necessary funding mechanisms to construct and maintain infrastructure for new development areas, and

WHEREAS, since 1996, the City of Modesto has formed fifteen Community Facilities Districts (“CFDs”) pursuant to the Mello-Roos Community Facilities Act of 1982, and

WHEREAS, the City has utilized a CFD consultant for all tasks related to, but not limited to, annual CFD administration services, forming CFDs and disclosure reporting, and

WHEREAS, after authorization, the Purchasing Division issued a formal Request for Proposals (RFP 2122-20) for the Administration Services for Community Facilities Districts on September 23, 2021. Prospective bidders were notified online and via email of the bid opportunity. Twenty-four (24) companies downloaded the RFP document, and

WHEREAS, the award of RFP 2122-20 and agreement for Administration Services for Community Facilities Districts for the Community and Economic Development Department to Goodwin Consulting Group of Sacramento, CA, is a contract for professional services and is therefore exempt from such formal bid

procedures pursuant to Modesto Municipal Code Section 8-3.204(a). Nevertheless, the award of RFP 2122-20 conforms to the Modesto Municipal Code's formal bid procedures because the City complied with the formal bid procedures and Goodwin Consulting Group was ranked highest among the bidders, and

WHEREAS, the City has been working with the Goodwin Consulting Group in the annual administration of fifteen CFDs since 2001, and

WHEREAS, this item was presented to the Economic Development Committee on April 4, 2022 and was forwarded to Council for approval, and

WHEREAS, the Goodwin Consulting Group contract will be paid through the annual maintenance tax of each CFD.

NOW, THEREFORE, BE IT RESOLVED approving an agreement with Goodwin Consulting Group, in an average annual amount of \$90,000, not to exceed \$450,000 over five years.

BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to execute the agreement with Goodwin Consulting Group, in a form approved by the City Attorney.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 24th day of May, 2022, by Councilmember Kenoyer, who moved its adoption, which motion being duly seconded by Councilmember Wright, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Escutia-Braaton, Kenoyer, Madrigal, Ricci, Wright, Mayor Zwahlen

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST:   
DIANE NAYARES-PEREZ, CMC,  
City Clerk

(SEAL)

APPROVED AS TO FORM:

BY:   
JOSE M. SANCHEZ, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2022-238**

**RESOLUTION APPROVING A TWO-YEAR AGREEMENT WITH STANISLAUS COUNTY BEHAVIORAL HEALTH AND RECOVERY SERVICES FOR THE PROVISION OF A SERIES OF 40-HOUR CRISIS INTERVENTION AND DE-ESCALATION TRAINING CLASSES FOR AN AMOUNT NOT TO EXCEED \$116,800, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE AGREEMENT**

WHEREAS, in June of 2021, the U.S. Department of Justice, Office of Community Oriented Policing Services (COPS Office) announced it was seeking applications for funding for the COPS Office FY 2021 Community Policing Development (CPD) Program; and

WHEREAS, the Modesto Police Department (MPD) applied under the De-Escalation State, Local, and Tribal Law Enforcement Agency Grants category; and

WHEREAS, in October of 2021, the MPD was awarded \$198,366 as a result of its successful grant application; and

WHEREAS, the COPS Office De-Escalation State, Local and Tribal Law Enforcement Agency Grant funding provides direct grants to state and local law enforcement agencies to support their ability to build and maintain their officers' de-escalation proficiency; and

WHEREAS, the proposed Crisis Intervention and De-Escalation Training will be taught by behavioral health professionals from the Modesto community; and

WHEREAS, MPD and the Stanislaus County Behavioral Health and Recovery Services (BHRS) have developed an interagency agreement that

outlines the roles and responsibilities of each agency in the partnership for the provision of the Crisis Intervention and De-Escalation Training classes; and

WHEREAS, Modesto Municipal Code (MMC) Section 8-203 generally requires all purchases, which meet or exceed \$50,000 for material, equipment or contractual services to follow formal bid procedures; and

WHEREAS, however, in accordance with MMC Section 8-3.204(a), exceptions to formal bidding requirements, the agreement is for professional services and, therefore, exempt from the bidding requirement; and

WHEREAS, the approval of an agreement with Stanislaus County Behavioral Health and Recovery Services conforms to MMC 8-3.204, subsection (a) as they are providing professional services of Crisis Intervention and De-Escalation Training to be taught by behavioral health professionals from the Modesto community.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves a two-year agreement with Stanislaus County Behavioral Health and Recovery Services for the provision of a series of 40-hour Crisis Intervention and De-Escalation Training classes for an amount not to exceed \$116,800.

BE IT FURTHER RESOLVED, that the City Manager, or his designee, is hereby authorized to execute the agreement, in a form approved by the City Attorney.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 24th day of May, 2022, by Councilmember Kenoyer, who moved its adoption, which motion being duly seconded by Councilmember Wright, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Escutia-Braaton, Kenoyer, Madrigal, Ricci, Wright, Mayor Zwahlen

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST:   
DIANE NAYARES-PEREZ, CMC,  
City Clerk

(SEAL)

APPROVED AS TO FORM:

BY:   
JOSE M. SANCHEZ, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2022-239**

**RESOLUTION APPROVING THE ADDITION OF THE SCRAMELTO POLICE ACADEMY TO THE AGENCIES AUTHORIZED TO FURNISH POLICE OFFICER STANDARDS AND TRAINING ACADEMY SERVICES, AND INCREASE THE ESTIMATED ANNUAL COST BY \$25,000 TO A NEW TOTAL OF \$125,000, AND THE TOTAL AMOUNT NOT TO EXCEED \$625,000 OVER FIVE YEARS, AND RESCINDING RESOLUTION 2021-066**

WHEREAS, the Commission on Peace Officer Standards and Training (POST) is the training standard for police officers, deputy sheriffs, school district police officers, district attorney investigators, as well as other classifications of peace officers; and

WHEREAS, the goal of every POST-certified academy is to ensure that those who graduate will be well-prepared for and successful in the Field Training Program and their career as California peace officers; and

WHEREAS, Modesto Police Department recruitments are cyclical in nature due to retirements, separations and promotions; and

WHEREAS, hiring is an extensive process of which the Police Officer Recruit POST Academy is vital; and

WHEREAS, the department's ability to hire new Police Officers and get them into POST Academy training in a timely fashion is critical to maintaining proper staffing levels; and

WHEREAS, on February 23, 2021, the City Council adopted Resolution No. 2021-066 approving the payment for furnishing Police Officer Standards and Training Academy Services with San Joaquin Delta College and/or Stanislaus County Sheriff's Department Regional Training Division for an estimated annual cost of \$100,000 and a total amount to not exceed \$500,000 over five years; and

WHEREAS, since that time, the rate of attrition with MPD has grown tremendously and being competitive in the hiring of police officers continues to be a challenge not only in Modesto, but nationally; and

WHEREAS, the Stanislaus and Delta academies only hold two full time academies per year, and they typically start and end at the same time, Fall (late September) and Spring (late March); and

WHEREAS, this timing of academies creates a period of several months where MPD is not able to make offers of employment with an immediate start date; and

WHEREAS, the MPD has identified the Sacramento Police Academy as a viable option as a POST certified recruit academy; and

WHEREAS, this agency holds academies in July and January which would enable MPD to send recruits to an academy four different times each year for a total of six classes, thus making MPD more competitive in an ever changing and difficult hiring market; and

WHEREAS, Modesto Municipal Code (MMC) Section 8-3.204 generally requires all purchases, in excess of fifty thousand dollars (\$50,000) to follow formal bid procedures; however, MMC 8-3.204(b) provides that a purchase may be exempt from the City's formal bidding requirement where the Purchasing Agency's requirements can be met solely by a single article or process; and

WHEREAS, additionally, MMC 8-3.204(d) provides that a purchase may also be exempted where the Purchasing Manager, in her discretion, determines that a process other than the formal bid procedure set forth in Section 8-3.203 will result in a

procurement for the City at the lowest possible cost commensurate with the desired quality; and

WHEREAS, here, San Joaquin Delta College, Stanislaus County Sheriff's Department Regional Training Division, and the Sacramento Police Academy should be exempt from the formal bidding procedure in accordance with MMC 8-3.204(b) since they are the local POST training facilities which meet or exceed the standards of POST training for recruits; and

WHEREAS, San Joaquin Delta College, Stanislaus County Sheriff's Department Regional Training Division, and the Sacramento Police Academy should be exempt from the formal bidding procedure in accordance with MMC 8-3.204(d) as they are the lowest possible cost commensurate with the desired quality; therefore, this purchase qualifies for exemption from the formal bidding procedures.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the payment for the furnishing of Police Officer Standards and Training Academy services with San Joaquin Delta College, Stanislaus County Sheriff's Department Regional Training Division and/or the Sacramento Police Academy for an estimated annual cost of \$125,000 and a total amount not to exceed \$625,000 over five years.


BE IT FURTHER RESOLVED that Resolution 2021-066 is hereby rescinded.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 24th day of May, 2022, by Councilmember Kenoyer, who moved its adoption, which motion being duly seconded by Councilmember Wright, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Escutia-Braaton, Kenoyer, Madrigal, Ricci, Wright, Mayor Zwahlen

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST:   
DIANE NAYARES-PEREZ, CMC,  
City Clerk

(SEAL)

APPROVED AS TO FORM:

BY:   
JOSE M. SANCHEZ, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2022-240**

**RESOLUTION APPROVING THE CITY OF MODESTO SPONSORSHIP OF THE 23RD ANNUAL 2022 NORTH MODESTO KIWANIS GRAFFITI PARADE AND CAR SHOW, INCLUDING A WAIVER OF CITY PERMIT FEES, POLICE DEPARTMENT OVERTIME AND VEHICLE COSTS, AND STREETS DIVISION LABOR AND EQUIPMENT COSTS AT AN ESTIMATED TOTAL COST OF \$82,430, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE ANY DOCUMENTS NECESSARY RELATED TO THE SPONSORSHIP**

WHEREAS, the 23<sup>rd</sup> Annual 2022 North Modesto Kiwanis Graffiti Parade and Car Show is a Modesto tradition; and

WHEREAS, the North Modesto Kiwanis have sponsored this event for the past 22 years; and

WHEREAS, in 2021 there were 1,500 classic cars and over 20,000 spectators in attendance, that raised over \$100,000 for support of local children's' charities through scholarships, grants, and multiple funding programs; and

WHEREAS, this annual event draws participants and spectators from miles around that benefit Modesto lodging, restaurants, and entertainment venues; and

WHEREAS, staff is requesting City Council's approval to sponsor the 2022 North Modesto Kiwanis Graffiti Parade and Car Show; and

WHEREAS, the sponsorship will include a waiver of City permit fees, Police Department overtime and vehicle costs, and labor and equipment costs for the Streets Division; and

WHEREAS, the estimated expense to the City of Modesto to sponsor the 23rd Annual 2022 North Modesto Kiwanis Graffiti Parade and Car Show is approximately \$82,430.

NOW THEREFORE, BE IT RESOLVED by Council of the City of Modesto that it hereby approves the City of Modesto sponsorship of the 23rd Annual 2022 North Modesto Kiwanis Graffiti Parade and Car Show including waiver of City permit fees, Police Department costs, and Streets Division costs for an estimated total of \$82,430.

BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to execute the necessary documents related to the sponsorship.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 24th day of May, 2022, by Councilmember Kenoyer, who moved its adoption, which motion being duly seconded by Councilmember Wright, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Escutia-Braaton, Kenoyer, Madrigal, Ricci, Wright, Mayor Zwahlen

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST:   
DIANE NAYARES-PEREZ, CMC,  
City Clerk

(SEAL)

APPROVED AS TO FORM:

BY:   
JOSE M. SANCHEZ, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2022-241**

**RESOLUTION ACCEPTING THE DEL RIO WELL 70 (REPLACING WELL 271) SURFACE IMPROVEMENTS AS COMPLETE, AUTHORIZING ALL NECESSARY STEPS TO FILE WITH THE COUNTY RECORDER, RELEASING SECURITIES, AND RELEASING PAYMENTS TOTALING \$2,444,787 TO CONCO-WEST, INC. OF MANTECA, CA**

WHEREAS, existing Well 271 located in the Del Rio service area was originally acquired as part of the Del Este Water System purchased by the City in 1995; and

WHEREAS, on September 14, 2010, by Resolution No. 2010-409, Well 271 was identified for replacement in the 2010 Water System Engineer's Report to meet the needs of the existing Del Rio service area; and

WHEREAS, the existing Well 271 site was not large enough for a replacement well and no property adjacent to the well site was available; and

WHEREAS, a portion of the parcel at the northwest corner of McHenry Avenue and Stewart Road was identified as a proposed replacement well site; and

WHEREAS, during the final design of Del Rio Replacement Well 271, staff was informed by the Department of Water Resources that Well number 271 could not be re-used. New well numbers are required for replacement wells. Therefore, the project became Del Rio Well 70 (Replacing Well 271). This project constructed surface improvements, which enables the newly installed Del Rio Production Well (Well 70) increased service reliability of the City's water system as described in the 2010 Water System Engineer's Report; and

WHEREAS, the first phase of the project, which consisted of drilling the well, was awarded on April 10, 2018, and was completed on January 8, 2019; and

WHEREAS, the final phase of the project for surface improvements consists of

a new well head, new pump & motor, a new pump building and walled building enclosure, all necessary electrical controls, a chlorine room and a standby emergency generator; and

WHEREAS, on January 5, 2012, by Resolution Nos. 2012-35 and 2012-36, Council approved plans and specifications prepared by West Yost for the Del Rio Replacement Test Well project, approved an agreement with West Yost for construction oversight and analysis services, and awarded a contract with Dan's Water Well & Pump Service, Inc. of Livermore, CA, to construct the test well, and

WHEREAS, on October 2, 2012, by Resolution No. 2012-402, Council accepted the work performed by Dan's Water Well & Pump Service, Inc. for the Del Rio Replacement Test Well Project as complete; and

WHEREAS, on May 9, 2017, by Resolution No. 2017-187, Council approved an agreement with West Yost for the final design, bid period and well equipping support services for the Del Rio Replacement Well 271 Project; and

WHEREAS, challenges with land acquisition and litigation resulted in project delays; and

WHEREAS, on September 5, 2017, Council certified the Final EIR for the Del Rio Water System Improvements projects by Resolution No. 2017-347; and

WHEREAS, on January 16, 2018, by Resolution No. 2018-05, Council approved the sale and purchase of 0.52-acre portion of land located at 7121 McHenry Avenue for an amount \$21,600 for the Del Rio Replacement Well 271 Project; and

WHEREAS, on March 14, 2018, by Resolution No. 2018-144, Council approved the plans and specifications for the Del Rio Replacement Well 271 project,

accepted the bid and awarded a contract to Nor-Cal Pump & Well Drilling, Inc., of Yuba City, CA, to construct the subsurface improvements of Well 271; and

WHEREAS, bids were advertised on May 15, 2019, and were publicly opened on July 2, 2019, pursuant to Modesto Municipal Code Section 8-3.403 and Charter Section 1307; and

WHEREAS, Conco-West, Inc., of Manteca, CA, was the apparent lowest responsible and responsive bidder; and

WHEREAS, on August 13, 2019, by Resolution No. 219-376, Council awarded a contract to Conco-West, Inc., of Manteca, CA., for the construction of the Del Rio Well 70 (Replacing Well 271) Surface Improvements project in the amount of \$2,506,086; and

WHEREAS, the contractor received the Notice to Proceed with a first working day of October 14, 2019. All contract work was completed by July 21, 2021; and

WHEREAS, the total project costs were \$3,428,657 which included design, construction, and construction administration costs. The total project amount originally budgeted was \$3,803,200 which included \$2,506,086 for the construction contract and contingency with Conco-West, Inc., of Manteca, CA; and

WHEREAS, the City's "Change Order Approval Policy" enacted by Council Resolution No. 94-443 on July 19, 1994, and updated by Resolution No. 2019-326 on July 9, 2019, states that a contract of at least \$1,000,000 but less than \$10,000,000 allows Directors Authority not to exceed eight percent (8%) of the original contract price, therefore, the approved contingency amount for the contract was \$185,636; and

WHEREAS, there were sixteen change orders on this project with an overall increase of \$124,337; and

WHEREAS, by accepting this project as complete, the City officially accepts the improvements made and authorizes the Notice of Completion to be filed.

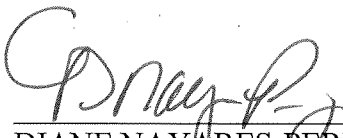
NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Del Rio Well 70 (Replacing Well 271) Surface Improvements is hereby accepted as complete from contractor, Conco-West, Inc. of Manteca, CA., and that the City Clerk is authorized to complete all necessary steps to file the appropriate notices and documents with the County Recorder, release securities, and authorize payments totaling \$2,444,787.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 24th day of May, 2022, by Councilmember Kenoyer, who moved its adoption, which motion being duly seconded by Councilmember Wright, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Escutia-Braaton, Kenoyer, Madrigal, Ricci, Wright, Mayor Zwahlen

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST:   
DIANE NAYARES-PEREZ, CMC,  
City Clerk

(SEAL)

APPROVED AS TO FORM:

BY:   
JOSE M. SANCHEZ, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2022-242**

**RESOLUTION ACCEPTING THE REBID CODONI LIFT STATION FORCE MAIN REPLACEMENT PROJECT AS COMPLETE, AUTHORIZING ALL NECESSARY STEPS TO FILE WITH THE COUNTY RECORDER, RELEASING SECURITIES, AND RELEASING PAYMENTS TOTALING \$242,334 TO ROLFE CONSTRUCTION COMPANY, INC., OF ATWATER, CA**

WHEREAS, the Codoni Pump Station was built in 1995; and

WHEREAS, the station was originally designed with the anticipation of heavy industrial development east of Codoni Avenue. However, the nearby industrial land was never developed and projected flows were not realized, resulting in a low flow environment; and

WHEREAS, the pumps in the Codoni Lift Station were oversized as they were designed to handle flows from the entire build-out area; and

WHEREAS, low flows can be hard on both lift stations and piping systems since they can lead to long detention times. Subsequently, long detention times result in the build-up of hydrogen sulfides, which, when converted to sulfuric acid, creates a highly corrosive septic environment; and

WHEREAS, the Codoni Lift Station discharge force main line, comprised of ductile iron (DIP), was subjected to the aforementioned conditions which led to corrosion of the line and ultimately failure; and

WHEREAS, on Monday, March 22, 2021, Wastewater staff discovered a sanitary sewer overflow (SSO) at the Codoni Lift Station discharge force main line (near Codoni/Finch); and

WHEREAS, over the week of March 22-March 26, Wastewater crews identified at least seven leaks within the pipe and performed spot repairs; and

WHEREAS, an immediate repair became necessary to prevent further SSOs, which would preserve and protect the health and safety of adjacent businesses and the public; and

WHEREAS, additionally, a repair was needed to prevent damage to the existing roadway and railroad tracks (Modesto, Empire & Traction); and

WHEREAS, Utilities Engineering prioritized this project and prepared an expedited design for the repair, in coordination with Modesto Empire and Traction (ME&T) for approval of the work; and

WHEREAS, considering the risk that the failing sewer force main posed to the City and the public, staff initiated an expedited and condensed formal bid period for this urgent replacement project; and

WHEREAS, the project was initially bid in April of 2021, however due to discrepancies between the bids received, staff recommended the rejection of all bids and re-advertising at a future date; and

WHEREAS, on June 8, 2021, by Resolution 2021-215, Council approved rejecting all bids for the Codoni Lift Station Force Main Replacement Project and authorizing staff to re-advertise the project for bids at a future date; and

WHEREAS, bids were advertised on June 15, 2021. Bids were publicly opened on June 29, 2021, pursuant to Modesto Municipal Code section 8-3.403 and City Charter Section 1307; and

WHEREAS, six bids were received, and Rolfe Construction Company Inc, of Atwater, CA, was the apparent lowest bidder; and

WHEREAS, on August 10, 2021 by Resolution No. 2021-328, Council awarded a contract to Rolfe Construction Company Inc., of Atwater, CA, for the construction of the Rebid Codoni Lift Station Force Main Replacement project in the amount of \$269,238; and

WHEREAS, the contractor received the Notice to Proceed with a first working day of October 18, 2021. All contract work was completed by December 22, 2021; and

WHEREAS, the total project costs were \$305,226 which included design, construction, and construction administration costs. The total project amount originally budgeted was \$363,887 which included \$296,162 for the construction contract and contingency with Rolfe Construction, Inc.; and

WHEREAS, the City's "Change Order Approval Policy" enacted by Council Resolution No. 94-443 on July 19, 1994, and updated by Resolution No. 2019-326 on July 9, 2019, states that for contracts less than \$1,000,000, the Director's Authority to issue change orders is up to ten percent (10%) of the contract amount; and

WHEREAS, the approved contingency amount for the project was \$26,924; and

WHEREAS, there were two change orders on this project with an overall decrease of \$26,904; and

WHEREAS, by accepting this project as complete, the City officially accepts the improvements made and authorizes the Notice of Completion to be filed.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Rebid Codoni Lift Station Force Main Replacement is hereby accepted as complete from contractor, Rolfe Construction, Inc. of Atwater, CA., and that the City Clerk is authorized to complete all necessary steps to file the appropriate notices and

documents with the County Recorder, release securities, and authorize payments totaling \$242,334.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 24th day of May, 2022, by Councilmember Kenoyer, who moved its adoption, which motion being duly seconded by Councilmember Wright, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Escutia-Braaton, Kenoyer, Madrigal, Ricci, Wright, Mayor Zwahlen

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST:   
DIANE NAYARES-PEREZ, CMC,  
City Clerk

(SEAL)

APPROVED AS TO FORM:

BY:   
JOSE M. SANCHEZ, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2022-243**

**RESOLUTION APPROVING A CAPITAL FACILITIES FEES EXEMPTION AGREEMENT, IN THE AMOUNT OF \$62,100, WITH STANISLAUS COUNTY AFFORDABLE HOUSING CORPORATION FOR THE SIX-UNIT PROJECT LOCATED AT 835 CALIFORNIA AVENUE, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE AGREEMENT**

WHEREAS, in 1987, the City of Modesto established a Capital Facilities Fees (CFF) Program to mitigate the impacts of new development as outlined in §6600 of the California Government Code, and

WHEREAS, the current CFF Policies and Procedures state, with respect to very low- and low-income housing exemptions, the total number of housing exemptions granted are not to exceed two percent (2%) of the cumulative total CFF program housing units, and

WHEREAS, the CFF Policies and Procedures also allows for exemptions to foster the development of residential units affordable to very low-income households, as well as certain qualifying residential units affordable to low-income households, and

WHEREAS, since the inception of the CFF Program, a total of 15,689 residential building permits have been issued of which 770 were granted CFF exemptions, and

WHEREAS, when the CFF Program was established, it was assumed the total number of residential units programmed to be constructed at build-out would be 129,163, and

WHEREAS, when considering the total number of units to be constructed at build-out, only 0.59% of the programmed units have received exemptions, and

WHEREAS, on February 22, 2022, Stanislaus County Affordable Housing Corporation (STANCO) submitted a CFF Exemption Application for its project located at 835 California Avenue in Modesto, and

WHEREAS, staff reviewed STANCO's CFF Exemption Application and found it complies with the CFF Policies & Procedures as all six units will be affordable to very low-income households, and

WHEREAS, this Project will provide six multi-family permanent supportive housing units (one efficiency, three one-bedroom, and two two-bedroom) for very low-income households with family members with serious mental illness, and

WHEREAS, all eligible tenant's total household income, at time of move-in, shall not exceed the thirty percent (30%) Area Median Income (AMI) limit for all assisted units, and

WHEREAS, this exemption request was presented to the Citizens' Housing & Community Development Committee on April 28, 2022 and was unanimously approved, and

WHEREAS, this item was publicly noticed as a Public Hearing in the Modesto Bee on May 13, 2022.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the CFF Exemption Agreement between the City of Modesto and Stanislaus County Affordable Housing Corporation for the exemption of \$62,100 in Capital Facilities Fees for the project located at 835 California Avenue, Modesto.

BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to execute the Capital Facilities Fees (CFF) Agreement, in a form approved by the City Attorney.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 24th day of May, 2022, by Councilmember Escutia-Braaton, who moved its adoption, which motion being duly seconded by Councilmember Wright, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Escutia-Braaton, Kenoyer, Madrigal, Ricci, Wright, Mayor Zwahlen

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST:

  
DIANE NAYARÉS-PÉREZ, CMC,  
City Clerk

(SEAL)

APPROVED AS TO FORM:

BY:   
JOSE M. SANCHEZ, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2022-244**

**RESOLUTION APPROVING THE CITY OF MODESTO HOME-AMERICAN RESCUE PLAN AS THE PROGRAM YEAR 2021-2022 ANNUAL ACTION PLAN AMENDMENT #1 AND ACCEPTING THE HOME-ARP GRANT IN THE AMOUNT OF \$3,409,774, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO NEGOTIATE AND EXECUTE ANY FORMS RELATED TO THE ACCEPTANCE OF THIS GRANT**

WHEREAS, the City of Modesto is an entitlement grantee under the U.S. Department of Housing and Urban Development (HUD) Office of Community Planning and Development (CPD) programs and HUD requires entitlement grantees adopt a comprehensive, long-term plan for the use of its HUD funds known as the Five-Year “Consolidated Plan” (Con Plan) which analyzes the City’s housing and community development needs, with a priority focus on low- and moderate- income individuals, households, and neighborhoods, and describes long-term strategies for meeting those needs, and

WHEREAS, on March 11, 2021, President Biden signed the American Rescue Plan Act of 2021 (ARP) into law, which provided over \$1.9 trillion in relief to address the continued impact of the COVID-19 pandemic on the economy, public health, State and local governments, individuals, and businesses, and

WHEREAS, to address the need for homelessness assistance and supportive services, Congress appropriated \$5 billion in ARP funds to be administered through HOME Investment Partnership Program to perform four activities that must primarily benefit qualifying individuals and families who are homeless, at risk of homelessness, or in other vulnerable populations, and

WHEREAS, as a HUD participating jurisdiction for the HUD HOME Partnership Investment Program (HOME), the City was eligible to receive a HOME-American Rescue Plan allocation, and

WHEREAS, on April 8, 2021, HUD issued the direct allocation of \$3,409,774 with an expenditure deadline of September 30, 2030. In order to allocate these funds, HUD requires the City to develop a plan that outlines the gaps in services and housing for the qualifying populations to be served with this funding and HUD requires that the funding be programmed through the PY 2021-2022 Annual Action Plan through an Amendment to this plan, and

WHEREAS, the City of Modesto's Program Year (PY) 2021-2022 Annual Action Plan represents the second (2nd) plan of the City of Modesto's 2020-2025 Consolidated Plan., and

WHEREAS, based on the full analysis in the gaps in housing and services in the HOME-ARP Plan, for those in our community that could be served with this funding, it was identified that this grant would best be served in the development of permanent supportive housing units, and

WHEREAS, lack of affordable housing in Modesto has created a bottleneck in getting individuals off the streets to further assist them in breaking the cycle of homelessness, and

WHEREAS, the HOME-ARP plan states that \$2,898,308 dedicated to the development of permanent supportive housing and \$511,466 to program administration and planning.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the City of Modesto HOME-American Rescue Plan as the Program Year 2021-2022 Annual Action Plan Amendment #1.

BE IT FURTHER RESOLVED that the City Manager, or his designee, is authorized to accept the HOME-ARP grant in the amount of \$3,409,774.

BE IT FURTHER RESOLVED that authorizing the City Manager, or his designee, to negotiate and execute any forms related to the acceptance of this grant.


The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 24th day of May, 2022, by Councilmember Wright, who moved its adoption, which motion being duly seconded by Councilmember Ricci, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Escutia-Braaton, Kenoyer, Madrigal, Ricci, Wright, Mayor Zwahlen

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST:

  
DIANE NAYARES-PEREZ, CMC,  
City Clerk

(SEAL)

APPROVED AS TO FORM:

BY:

  
JOSE M. SANCHEZ, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2022-245**

**RESOLUTION AMENDING THE FISCAL YEAR 2021-2022 MULTI-YEAR  
FUND BUDGET FOR THE ALLOCATION OF THE AMERICAN RESCUE  
PLAN ACT OF 2021 HOME GRANT FUNDS IN THE AMOUNT OF \$3,409,774  
WITH THE APPROPRIATE REVENUE AND EXPENDITURE ALLOCATIONS  
AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE TO ACCEPT  
THE FEDERAL GRANT FUNDS AND TAKE THE NECESSARY STEPS TO  
IMPLEMENT THE PROVISIONS OF THIS RESOLUTION**

WHEREAS, the City of Modesto is an entitlement grantee under the U.S.  
Department of Housing and Urban Development (HUD) Office of Community Planning  
and Development (CPD) programs, and

WHEREAS, on March 11, 2021, President Biden signed the American Rescue  
Plan Act of 2021 (ARP) into law, which provided over \$1.9 trillion in relief to address  
the continued impact of the COVID-19 pandemic on the economy, public health, State  
and local governments, individuals, and businesses, and

WHEREAS, to address the need for homelessness assistance and supportive  
services, Congress appropriated \$5 billion in ARP funds to be administered through  
HOME Investment Partnership Program (HOME) to primarily benefit qualifying  
individuals and families who are homeless, at risk of homelessness, or in other vulnerable  
populations, and

WHEREAS, as a HUD participating jurisdiction, the City was eligible to receive a  
HOME-American Rescue Plan allocation, and

WHEREAS, on April 8, 2021, HUD issued the direct allocation of \$3,409,774  
with an expenditure deadline of September 30, 2030.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto  
that it hereby amends the Fiscal Year 2021-2022 Multi-Year Fund Budget, to budget the

allocation of American Rescue Plan Act of 2021 grant funds from the U.S. Department of Housing and Urban Development with the appropriate revenue and expenditure allocations.

BE IT FURTHER RESOLVED that the City Manager, or his designee, is authorized to accept the Federal grant funds in the amount of \$3,409,774.

BE IT FURTHER RESOLVED that authorizing the City Manager, or his designee, to carry out administrative actions or execute any agreements required for the City to carry out the purpose and intent 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 May, 2022, by Councilmember Wright, who moved its adoption, which motion being duly seconded by Councilmember Ricci, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Escutia-Braaton, Kenoyer, Madrigal, Ricci, Wright, Mayor Zwahlen

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST:   
DIANE NAYARES-PEREZ, CMC,  
City Clerk

(SEAL)

APPROVED AS TO FORM:

BY:   
JOSE M. SANCHEZ, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2022-246**

**RESOLUTION APPROVING THE CITY OF MODESTO PROGRAM YEAR 2022-2023 ANNUAL ACTION PLAN FOR USE OF COMMUNITY DEVELOPMENT BLOCK GRANT PROGRAMS, EMERGENCY SOLUTIONS GRANT, AND HOME INVESTMENT PARTNERSHIPS PROGRAM FUNDING RECEIVED FROM THE U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO NEGOTIATE AND EXECUTE ANY RELATED PROGRAM AGREEMENTS, CONTRACTS OR OTHER DOCUMENTATION REQUIRED FOR IMPLEMENTATION OF THE PROGRAM YEAR 2022-2023 ANNUAL ACTION PLAN, AND AUTHORIZING THE CITY MANAGER TO SUBMIT APPLICABLE DOCUMENTATION AND PROVIDE TECHNICAL ALTERATIONS, AS REQUIRED BY HUD, INCORPORATE COMMENTS RECEIVED PRIOR TO THE CLOSE OF THE PUBLIC COMMENT PERIOD, AND TO MAKE THE NECESSARY STEPS TO IMPLEMENT THE PROVISION OF THIS RESOLUTION**

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

WHEREAS, the City of Modesto's Program Year (PY) 2022-2023 Annual Action Plan represents the third (3<sup>rd</sup>) plan of the City of Modesto's 2020-2024 Consolidated Plan, and

WHEREAS, the PY 2022-2023 AAP identifies the expected resources to be available and the projects to be funded during the program year to address community priority needs as identified in the Consolidated Plan, and

WHEREAS, CDBG funds support a range of eligible projects to benefit low- and moderate-income individuals, families, and neighborhoods, and

WHEREAS, CDBG funds must be allocated to eligible activities within the allowable project categories to support the goals and objectives identified within the Consolidated Plan to address community needs, and

WHEREAS, up to fifteen percent (15%) of the overall CDBG allocation for public service activities may be used to fund CDBG Public Services grants awarded to eligible organizations that serve low- and moderate-income residents, and

WHEREAS, the ESG program supports essential services to homeless individuals and families through street outreach and engagement, rapid re-housing assistance, homeless prevention, homeless management information system support, and provision of vital services in emergency shelters, and

WHEREAS, the HOME program supports projects that purchase, construct, and/or rehabilitate affordable housing for rent or homeownership to low income individuals, and

WHEREAS, citizen participation is a key component of the Annual Action Plan process, and

WHEREAS, HUD regulations require the City provide ample opportunity and means for the populations served by the grants, as well as the general citizenry, to provide input on the goals and priorities and the specific type of activities to be funded in the City's Program Year 2022-2023 Annual Action Plan, and

WHEREAS, a series of community meetings were held during the month of April and May 2022 to provide information about the City's HUD programs and discuss the PY 2022-2023 Annual Action Plan, and

WHEREAS, any comments obtained from the community meetings will be incorporated into the Program Year 2022-2023 Annual Action Plan, and

WHEREAS, in Program Year 2022-2023, the City will receive approximately \$3 million from the three federal programs, and

WHEREAS, on May 12, 2022 the CH&CDC reviewed, approved and forwarded the proposed Program Year 2022-2023 Annual Action Plan to Council for review and approval, and

WHEREAS, in compliance with the Citizen Participation Plan requirements, a 30-day public period to review and comment on the draft documents opened April 24, 2022 and will close with a public hearing at the City Council meeting on May 24, 2022.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the City of Modesto Program Year 2022-2023 Annual Action Plan for use of the Community Development Block Grant, HOME Investment Partnerships Program, and Emergency Solutions Grant funds.

BE IT FURTHER RESOLVED that the City Manager, or his designee, is authorized to negotiate and execute any related program agreements, contracts, or other documentation required for implementation of the Program Year 2022-2023 Annual Action Plan authorization.


BE IT FURTHER RESOLVED that the City Manager, or his designee, is authorized to submit all applicable documentation and provide technical alterations, as required by HUD, and to incorporate comments received prior to the close of the public comment period.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 24th day of May, 2022, by Councilmember Ricci, who moved its adoption, which motion being duly seconded by Councilmember Wright, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Escutia-Braaton, Kenoyer, Madrigal, Ricci, Wright, Mayor Zwahlen

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST:   
DIANE NAYARES-PEREZ, CMC,  
City Clerk

(SEAL)

APPROVED AS TO FORM:

BY:   
JOSE M. SANCHEZ, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2022-247**

**RESOLUTION APPROVING THE ALLOCATION OF FUNDS OUTLINED IN THE PROGRAM YEAR 2022-2023 ANNUAL ACTION PLAN BUDGET TO REFLECT PROPOSAL SUBMITTED TO THE U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO TAKE THE NECESSARY STEPS TO IMPLEMENT THE PROVISIONS OF THIS RESOLUTION**

WHEREAS, each year the City of Modesto receives Community Development Block Grant (CDBG), HOME Investment Partnership Grant (HOME) and Emergency Solutions Grant (ESG) funds from the U.S. Department of Housing and Urban Development (HUD), and

WHEREAS, the CDBG and HOME grant programs also generate program income and revolving loan fund income which further fund the grant programs and are to be used under similar rules and regulations as grant funding, and

WHEREAS, HUD requires these amounts to be presented to the City Council each year in an Annual Action Plan (AAP), and

WHEREAS, the Program Year 2022-23 Annual Action Plan proposed budget submitted to the U.S. Department of Housing and Urban Development, which is **attached** hereto as **Exhibit A**, and incorporated herein by reference, and

WHEREAS, funding availability and specific project and activity budgets consistent with the AAP are managed in HUD's online Integrated Disbursement and Information Management (IDIS) system and the City's financial system simultaneously, and

WHEREAS, according to HUD rules and regulations, substantial amendments to an AAP must be presented to the City Council for approval, while unsubstantial amendments, remaining consistent with the AAP, can be made in IDIS by City staff, and

WHEREAS, funding availability and specific project and activity budgets consistent with the AAP are managed in HUD's online Integrated Disbursement and Information Management (IDIS) system and the City's financial system simultaneously, and

WHEREAS, synchronization of the City's financial system and IDIS necessitates budget adjustments within the City's financial system, and

WHEREAS, budget adjustments are necessary to revise CDBG, HOME and ESG budgets included in the City of Modesto 2022-23 Annual Operating, Multi-Year and Capital Improvement Budgets, and

WHEREAS, budget amendments performed under the authority of this resolution will be presented to the Finance Committee and the Council as part of the existing Monthly Budget Adjustment Report process, and

WHEREAS, the authority of this resolution will not be used to satisfy any HUD rules or regulations requiring information to be presented to the City Council or the public.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the allocation of funds outlined in the Program Year 2022-2023 Annual Action Plan proposed budget 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 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 May, 2022, by Councilmember Ricci, who moved its adoption, which motion being duly seconded by Councilmember Wright, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Escutia-Braaton, Kenoyer, Madrigal, Ricci,  
Wright, Mayor Zwahlen

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST:

  
\_\_\_\_\_  
DIANE NAYARES-PEREZ, CMC,  
City Clerk

(SEAL)

APPROVED AS TO FORM:

BY:

  
\_\_\_\_\_  
JOSE M. SANCHEZ, City Attorney

## EXHIBIT A

The following is a breakdown of City of Modesto Program Year 2022-2023 grant allocations:

CDBG:	\$1,836,974
ESG:	\$ 158,817
HOME:	<u>\$1,013,807</u>
<b>TOTAL</b>	<b>\$3,009,598</b>

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2022-248**

**RESOLUTION OF THE CITY OF MODESTO CALLING FOR THE HOLDING OF A MUNICIPAL ELECTION TO BE HELD ON NOVEMBER 8, 2022, REQUESTING FROM THE STANISLAUS COUNTY BOARD OF SUPERVISORS TO CONSOLIDATE THE CITY OF MODESTO GENERAL MUNICIPAL ELECTION TO BE HELD ON NOVEMBER 8, 2022, REQUESTING THE SERVICES OF THE REGISTRAR OF VOTERS, ELECTIONS DIVISION OF THE COUNTY OF STANISLAUS TO CONDUCT THE ELECTION ON BEHALF OF THE CITY OF MODESTO AND THE MODESTO CITY SCHOOLS BOARD**

WHEREAS, the City of Modesto will hold a Municipal Election on November 8, 2022, for the purpose of electing three (3) Council Members (Districts 2, 4, and 5) for a term of four (4) years, and four (4) Modesto City Schools Board Members (Trustee Areas 1, 3, 5, and 7) for a term of four (4) years, and

WHEREAS, the City of Modesto respectively requests that the Stanislaus County Registrar of Voters, Elections Division, furnish all other services, facilities, supplies, equipment, etc. necessary for the Municipal Election, and

WHEREAS, the City of Modesto City Clerk's Office will be responsible for issuing/collecting election information, publishing the Notice of Election, and the Nominees for Public Office, and

WHEREAS, the City of Modesto will reimburse the County of Stanislaus for all actual costs for services performed to conduct the Municipal Election on behalf of the City, and

WHEREAS, pursuant to Elections Code section 10403, the resolution requesting the consolidation shall be adopted and filed at the same time as the adoption of the ordinance, resolution, or order calling the election.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby calls for the holding of a General Municipal Election to be held on Tuesday, November 8, 2022, for the purpose of electing three (3) Council Members (Districts 2, 4, and 5) for a term of four (4) years, and four (4) Modesto City Schools Board Members (Trustee Areas 1, 3, 5, and 7) for a term of four (4) years.

BE IT FURTHER RESOLVED by the Council of the City of Modesto that it hereby formally requests from the Board of Supervisors of Stanislaus County, California, to consolidate the City of Modesto's Municipal Election with the County's General Election to be held on November 8, 2022, requesting the services of the Registrar of Voters, Elections Division, of the County of Stanislaus to conduct the election 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 7th day of June, 2022, by Councilmember Wright, who moved its adoption, which motion being duly seconded by Councilmember Kenoyer, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Escutia-Braaton, Kenoyer, Madrigal, Ricci, Wright, Mayor Zwahlen

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST:   
DIANE NAYARES-PEREZ, CMC,  
City Clerk

(SEAL)

APPROVED AS TO FORM:

BY:   
JOSE M. SANCHEZ, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2022-249**

**RESOLUTION ADOPTING REGULATIONS FOR CANDIDATES FOR  
ELECTIVE OFFICE PERTAINING TO CANDIDATES STATEMENTS  
SUBMITTED TO THE VOTERS AT AN ELECTION TO BE HELD ON  
TUESDAY, NOVEMBER 8, 2022**

WHEREAS, Section 13307 of the Elections Code of the State of California provides that the governing body of any local agency may adopt regulations pertaining to materials prepared by any candidate for a municipal election, including costs of the candidates statement.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF MODESTO, DOES HEREBY RESOLVE, DECLARE, DETERMINE AND ORDER AS FOLLOWS:

SECTION 1. GENERAL PROVISIONS. That pursuant to Section 13307 of the Elections Code of the State of California, each candidate for elective office to be voted for at an Election to be held in the City of Modesto on November 8, 2022 may prepare a candidate's statement on an appropriate form provided by the City Clerk. The statement may include the name, age and occupation of the candidate and a brief description of no more than 200 words of the candidate's education and qualifications expressed by the candidate himself or herself. The statement shall not include party affiliation of the candidate, nor membership or activity in partisan political organizations. The statement shall be filed [in typewritten form] in the office of the City Clerk at the time the candidate's nomination papers are filed. The statement may be withdrawn, but not changed, during the period for filing nomination papers and until 5:00 p.m. of the next working day after the close of the nomination period.

SECTION 2. FOREIGN LANGUAGE POLICY.

- A. Pursuant to the Federal Voting Rights Act, candidates statements will be translated into all languages required by the County of Stanislaus. The County is required to translate candidate's statements into the following languages: Spanish.
- B. The County will print and mail sample ballots and candidates statements to all voters in Spanish. The County will make the sample ballots and candidates statements in the required languages available at all polling places, on the County's website, and in the Election Official's office.

SECTION 3. PAYMENT.

- A. Translations:
  - 1. The candidate shall be required to pay for the cost of translating the candidates statement into any required foreign language as specified in (A) and/or (B) of Section 2 above pursuant to Federal and\or State law, but is requested as an option by the candidate.
- B. Printing:
  - 1. The candidate shall be required to pay for the cost of printing the candidates statement in English in the main voter pamphlet.
  - 2. The candidate shall be required to pay for the cost of printing the candidates statement in a foreign language required in (A) of the Foreign Language Policy Section above, in the main voter pamphlet.

SECTION 4. ESTIMATE OF PRINTING COSTS. The Stanislaus County Registrar of Voters has estimated the cost of printing, handling, translating, and mailing

the candidate's statement filed pursuant to this section, including cost incurred as a result of complying with the Voting Rights Act of 1965 (as amended). The estimated cost for printing of a candidate's statement for the November 8, 2022 main voter pamphlet is \$1,000. The City Clerk shall require each candidate filing a statement to pay \$1,000 in advance as a condition of having his or her statement included in the voter's pamphlet. The estimate is only an approximation of the actual cost. Costs vary from one election to another and may be significantly more or less than the estimate, depending on the actual number of candidates filing statements. Accordingly, the City Clerk is not bound by the estimate and may, on a pro rata basis, bill the candidate for additional actual expense or refund any excess paid depending on the final actual cost. In the event of underpayment, the City Clerk will require the candidate pay the balance of the cost incurred. In the event of overpayment, the clerk shall prorate the excess amount to the candidate and refund the excess amount paid after the election.

SECTION 5. MISCELLANEOUS. The City Clerk shall comply with all recommendations and standards set forth by the California Secretary of State regarding occupational designations and other matters relating to elections.

SECTION 6. ADDITIONAL MATERIALS. No candidate will be permitted to include additional materials in the sample ballot package.

SECTION 7. The City Clerk shall provide each candidate or the candidate's representative a copy of this Resolution at the time nominating petitions are issued.

SECTION 8. That all previous resolutions establishing council policy on payment for candidates statements are repealed.

SECTION 9. That this Resolution shall apply only to the election to be held on

November 8, 2022 and shall then be repealed.

SECTION 10. That the City Clerk shall certify to the passage and adoption of this Resolution and enter it into the book of original resolutions.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 7th day of June, 2022, by Councilmember Wright, who moved its adoption, which motion being duly seconded by Councilmember Kenoyer, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Escutia-Braaton, Kenoyer, Madrigal, Ricci,  
Wright, Mayor Zwahlen

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST:   
DIANE NAYARES-PEREZ, CMC,  
City Clerk

(SEAL)

APPROVED AS TO FORM:

BY:   
JOSE M. SANCHEZ, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2022-250**

**RESOLUTION AMENDING THE FISCAL YEAR 2021-22 ANNUAL  
OPERATING AND CAPITAL IMPROVEMENT FUND BUDGETS AND  
AUTHORIZING THE CITY MANAGER, TO TAKE THE NECESSARY STEPS  
TO IMPLEMENT THE PROVISIONS OF THIS RESOLUTION**

WHEREAS, a financial analysis has been completed and it has been determined that a budget adjustment is required to the Annual and Capital Improvement Budgets of the City of Modesto for Fiscal Year 2021-22.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves amending the Fiscal Year 2021-22 Annual Operating and Capital Improvement budget as shown in **Exhibit A**, which is **attached** hereto and incorporated by reference herein.

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 7th day of June, 2022, by Councilmember Wright, who moved its adoption, which motion being duly seconded by Councilmember Kenoyer, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Escutia-Braaton, Kenoyer, Madrigal, Ricci, Wright, Mayor Zwahlen

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST:   
DIANE NAYARES-PEREZ, CMC,  
City Clerk

(SEAL)

APPROVED AS TO FORM:

BY:   
JOSE M. SANCHEZ, City Attorney

## EXHIBIT A

### FISCAL YEAR 2021-22

#### **COMMUNITY & ECONOMIC DEVELOPMENT**

- A budget adjustment is necessary to transfer \$393,780 from Fund 1420 – Surface Transportation/Measure L – SB1 MOE fund to project 101168 – Scenic Dr. Pavement Rehab Phase 1 to satisfy the Fiscal Year 2021-2022 Maintenance of Effort for Measure L. In addition, the transfer from Fund 1410 – Measure L Road Tax Fund to the project is being reduced by the same amount and will be returned to the Measure L Local Road Tax fund – Local Streets and Roads category.

#### **PARKS & RECREATION**

- A budget adjustment is needed in the Modesto Convention & Visitors Bureau (CVB) cost center because the TOT collected from lodging establishments over the nine prior months has increased as more people are traveling. This adjustment will increase the revenue budget in cost center 34300 in account 41204 (Transient Occupancy Tax) by \$126,635 and the expense budget in the same cost center by \$126,641 in account 53505 (Intergovernmental Services – Other). The net of the budget adjustments for this cost centers is an increase of \$6 to the budget expense. The City of Modesto has an agreement with Modesto Convention & Visitors Bureau Inc. The City provides 13.33% (thirteen and thirty-three hundredths percent) of the 9% (nine percent) Transient Occupancy Tax (TOT) collect from lodging guests.
- A budget adjustment is needed in the Modesto Tourism Marketing District (MTMD) cost center because the Modesto Tourism Marking Fee collected from hotels has increased as more people are starting to travel more. This adjustment will increase the revenue budget in cost center 34301 by \$95,686 in account 47056 (Special Assessments - Modesto Tourism Marketing District) and increase the expense budget in cost center 34301 by \$92,603 in account 53505 (Intergovernmental Services – Other) and by \$3,083 in account 54501 (Services City Forces – Intrafund). The City of Modesto has an agreement with Modesto Convention & Visitors Bureau (CVB) where the City collects 1% (one percent) Modesto Tourism Marking Fee from hotels. The 1% (one percent) fee collected by the City is then remitted to the CVB minus an admin fee of 0.75% (seventy-five hundredths percent).
- A Budget Adjustment is needed in the Downtown Improvement District (DID) Cost center due to the increased DID tax revenue business have remitted over the past 9 months. This adjustment will increase revenue in cost center 80030 by \$47,386 in account 41403 (Business License Tax - Mill Tax DID) and increase the expense budget in cost center 80030 by \$49,187 in account 53505 (Intergovernmental Services – Other). The net expense budget increase is \$1,801. The City of Modesto has a Memorandum of Understanding and Cooperative agreement (MOU Agreement) with Modesto Downtown Improvement District, Inc. (DID) for the collection and disbursement of DID taxes. The City collects DID taxes from businesses located downtown and then remits the taxes to Modesto Downtown Improvement District minus an annual administration fee.

**PUBLIC WORKS**

- A budget adjustment is necessary in the amount of \$420,198 to establish transfers from Fund 4520 – Bus Service Fund - DAR, Fund 4540 - Bus Fixed Route Max Operations Fund, and Fund 4550 - Bus Fixed Route - Alternative Transport Fund to Fund 4510 - Bus Fixed Route Fund and Fund 4530 – Transportation CTR Fund in order to account for the close-out of all City transit funds and move all remaining cash to Stanislaus Regional Transit Authority (StanRTA).
- *The following adjustments are being made from the various city Fleet Replacement sub-funds to the Fleet Replacement Fund (5409). This action is being done to reimburse the Fleet Replacement Fund (5409) for vehicle purchases that had been made as required by fund accounting rules in FY 21-22 for the activity through March 2022. Below is a table showing the net effect in each sub-fund as a result of the various adjustments.*

Fund	Fund Name	Net Impact of Adjustments
<b>1709</b>	Surface Transportation Fleet Replacement	\$21,158
<b>4109</b>	Water Fleet Replacement	\$135,199
<b>4489</b>	Storm Drain Fleet Replacement	\$638,590
<b>4899</b>	Solid Waste Fleet Replacement	\$620,275
<b>5410</b>	General Fund Equipment Fleet Replacement	\$223,025
<b>Total Transfer Outs</b>		<b>\$1,638,247</b>
5409	Transfer In – Fleet Management Fleet Replacement	\$1,638,247
<b>Total Transfer Ins</b>		<b>\$1,638,247</b>

A budget adjustment is necessary to establish a transfer in the amount of \$21,158 from Surface Transportation Fleet Replacement Fund 1709 to Fleet Replacement Fund 5409 for a purchase made in FY 21/22 for (1) Trailer Tilt bed and (1) Roller Wacker.

A budget adjustment is necessary to establish a transfer in the amount of \$135,199 from Water Fleet Replacement Fund 4109 to Fleet Replacement Fund 5409 for a purchase made in FY 21/22 for (1) Tractor Load with backhoe.

A budget adjustment is necessary to establish a transfer in the amount of \$638,590 from Storm Drain Fleet Replacement Fund 4489 to Fleet Replacement Fund 5409 for a purchase made in FY 21/22 for (2) full size street sweepers.

A budget adjustment is necessary to establish a transfer in the amount of \$620,275 from Solid Waste Fleet Replacement Fund 4899 to Fleet Replacement Fund 5409 for a purchase made in FY 21/22 for (1) High Dump Street Sweep, (1) ¾ Ton Truck, and (1) Windrow Turner.

A budget adjustment is necessary to establish a transfer in the amount of \$223,025 from General Fund Equipment Fleet Replacement Fund 5410 to Fleet Replacement Fund 5409 for a purchase made in FY 21/22 for (2) SUV Patrol, (1) SUV Investigation and Police build out equipment.

**UTILITIES**

- A budget adjustment in the amount of \$1,303,000 is needed in the Water CIP (4180) to establish Project 101403 – Well 312 Treatment System & Flushline. This project will flush the lines for Well 312 located in the Emprise Service Area. The City is seeking a Drought Relief grant that may fund \$1,000,000 of the total expenditures.
- A budget adjustment in the amount of \$1,035,000 is necessary in the Wastewater Fund (4210) to establish Project 101404 - Recoating Clarifiers 1 & 2. This project will fund the recoating of Clarifiers 1 & 2 at the Sutter Wastewater Treatment Plant and replace the existing lawn area with drought tolerant hardscaping.

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2022-251**

**RESOLUTION ACKNOWLEDGING RECEIPT OF NOTIFICATION OF THE  
ANNUAL INFLATIONARY ADJUSTMENT FOR CAPITAL FACILITIES FEES  
AND DEVELOPMENT USER FEES FISCAL YEAR 2022-23**

WHEREAS, a development user fee is a charge for services provided by a governmental agency to a public citizen or group, and

WHEREAS, California State law, Government Code 66014(a), stipulates that user fees charged by local agencies, "...may not exceed the estimated reasonable cost of providing the service for which the fee is charged", and

WHEREAS, managed by the Community and Economic Development Department, development user fees, are charged by the City to pay for the cost of various development services provided by City Staff., and

WHEREAS, in 2011, all development user fees were reviewed and refined by the Comprehensive Fees Task Force, and suggested changes after considering several factors including annual inflation adjustments, and

WHEREAS, per Resolution 2011-105, all development user fees shall be automatically adjusted for inflation based on the annual change in the San Francisco Bay Area Engineering News Record Construction Cost Index through the month of December the year preceding each inflationary adjustment, with adjustments effective on July 1st of each year, and

WHEREAS, the annual Construction Cost Index inflationary adjustment to be considered for Fiscal Year 2022-23 is an increase of 9.19%, and

WHEREAS, the City is required to provide at least one meeting with stakeholders and other interested parties at least sixty days in advance of the effective date of the adjustment, and

WHEREAS, this notification of Inflationary Adjustment meeting was held on April 28, 2022, and

WHEREAS, City Staff presented item to the Economic Development Committee on May 2, 2022 and the item was forwarded to Council for review.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby acknowledges receipt of notification of the annual inflationary adjustment Capital Facilities Fees and Development User Fees Fiscal Year 2022-23.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 7th day of June, 2022, by Councilmember Wright, who moved its adoption, which motion being duly seconded by Councilmember Kenoyer, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Escutia-Braaton, Kenoyer, Madrigal, Ricci, Wright, Mayor Zwahlen

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST:   
DIANE NAYARES-PEREZ, CMC,  
City Clerk

(SEAL)

APPROVED AS TO FORM:

BY:   
JOSE M. SANCHEZ, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2022-252**

**RESOLUTION APPROVING THE UPDATES TO THE CITY'S DEBT  
MANAGEMENT POLICY**

WHEREAS, pursuant to the City of Modesto Debt Management Policy, last adopted on April 13, 2021 the City of Modesto is required to periodically review and update its Debt Management Policy to address changes to the primary objectives related to the City's debt and financing related activities; and

WHEREAS, staff has identified the need to update the City's Debt Management Policy in order to continue to maintain cost-effective access to the capital markets through prudent yet flexible policies; moderate principal and debt service payments through effective planning and project cash management; achieve the lowest cost of borrowing; and achieve the highest practical credit ratings; and

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto, that it hereby adopts the revised Debt Management Policy.

BE IT FURTHER RESOLVED that City staff is hereby authorized and directed to proceed with any and all actions deemed necessary or advisable, following the adopted policy guidelines pursuant to this Resolution, in connection with the future issuances of the City Debt, for future consideration by this City Council.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 7th day of June, 2022, by Councilmember Wright, who moved its adoption, which motion being duly seconded by Councilmember Kenoyer, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Escutia-Braaton, Kenoyer, Madrigal, Ricci, Wright, Mayor Zwahlen

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST:   
DIANE NAYARÉS-PÉREZ, CMC,  
City Clerk

(SEAL)

APPROVED AS TO FORM:

BY:   
JOSE M. SANCHEZ, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2022-253**

**RESOLUTION ESTABLISHING THE APPROPRIATION LIMIT FOR THE  
FISCAL YEAR 2022-2023 ANNUAL BUDGET**

WHEREAS, Proposition IV of the California State Constitution requires the City to establish an appropriation limit calculation each fiscal year; and

WHEREAS, Article XIII B of the California Constitution specifies that appropriations made by state and local governments may increase annually by a factor comprised of the change in population combined with either the change in California per capita personal income or the change in the local assessment roll due to local nonresidential construction; and

WHEREAS, the staff has been consistently using the change in population within the city limit of Modesto and change in California per capita personal income every year when calculating the appropriation limit; and

WHEREAS, the appropriation limit calculated for Fiscal Year 2022-23 is \$558,994,169; and

WHEREAS, this calculation was made available for public viewing at least fifteen days prior to the Council meeting. A copy of Schedule A and the calculation detail is on file at the City of Modesto Finance Department.

NOW, THEREFORE, BE IT RESOLVED, by the Council of the City of Modesto that the appropriation limit for Fiscal Year 2022-2023, including the price and population factors to be used in the calculation, is hereby established as shown on **Schedule A**, **attached** hereto, and made a part hereof.

BE IT FURTHER RESOLVED, that the Director of Finance, 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 7th day of June, 2022, by Councilmember Wright, who moved its adoption, which motion being duly seconded by Councilmember Kenoyer, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Escutia-Braaton, Kenoyer, Madrigal, Ricci, Wright, Mayor Zwahlen

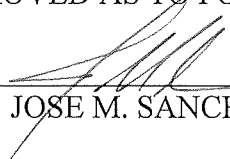
NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST.   
DIANE NAYARES-PEREZ, CMC,  
City Clerk

(SEAL)

APPROVED AS TO FORM:

BY:   
JOSE M. SANCHEZ, City Attorney

**SCHEDULE A**

**FISCAL YEAR 2022-23**

**PROPOSITION 4**

**APPROPRIATION LIMIT CALCULATION**

FY 2021-22 Appropriation Limit \$521,839,217

Adjustment Factors

Per Capita Personal Income Change 7.55%

Population Change (Modesto) -0.40%

Per Capita converted to a ratio 1.0755

Population converted to a ratio 0.9960

Calculation of factor for FY 2022-23 1.0712

Adjustment \$37,154,952

FY 2022-23 Appropriation Limit \$558,994,169

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2022-254**

**RESOLUTION APPROVING THE FIRST AMENDMENT INCREASING THE AGREEMENT AMOUNT WITH THE PUBLIC GROUP AKA PUBLIC SURPLUS FOR THE FURNISHING OF ONLINE AUCTION SERVICES BY \$12,000 ANNUALLY FROM \$18,000 TO A REVISED AMOUNT ESTIMATED AMOUNT OF \$30,000 AND FOR A REVISED TOTAL AMOUNT NOT TO EXCEED \$114,000 OVER FIVE YEARS AND AUTHORIZING THE CITY MANAGER OR HIS DESIGNEE TO EXECUTE THE AMENDMENT**

WHEREAS, under Administrative Directive 7.6 – Surplus of City Property Policy, the Finance Department in coordination with all City departments, tracks, administers and records the surplus of City property; and

WHEREAS, on March 12, 2019 under Resolution 2019-117, Council approved an agreement with The Public Group by utilizing the competitive bid process with National Intergovernmental Purchasing Alliance (National IPA), City of Tucson, for an online auction service for a two-year agreement with three (3) one-year extension options, for an estimated annual cost not to exceed \$18,000 and a total amount not to exceed \$90,000 over five years; and

WHEREAS, with the increase in volume of the surplus of City vehicles, the Public Works Fleet Division is in need to surplus City vehicles that have defined as non-operational for field use; and

WHEREAS, as the Fleet Division has been purchasing new vehicle replacements or additions, it is anticipated that the volume will increase the demand to place more vehicles for sale through the online auction services, which will require additional service costs under this agreement; and

WHEREAS, the fee for the online auction service originally was captured as a surcharge fee of 5%, and now under the third year of the agreement, the surcharge fee has

increased to 9.5%; however, this fee is captured as part of the overall bidding price and paid for by the winning bidder.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the First Amendment increasing the agreement amount with the Public Group aka Public Surplus for the furnishing of online auction services by \$12,000 annually from \$18,000 to a revised annual estimated amount of \$30,000 and for a revised total amount not to exceed \$114,000 over five years.

BE IT FURTHER RESOLVED, that the City Manager, or his designee, is hereby authorized to execute the amendment, in a form approved by the City Attorney.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 7th day of June, 2022, by Councilmember Wright, who moved its adoption, which motion being duly seconded by Councilmember Kenoyer, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Escutia-Braaton, Kenoyer, Madrigal, Ricci, Wright, Mayor Zwahlen

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST:   
DIANE NAYARES-PEREZ, CMC,  
City Clerk

(SEAL)

APPROVED AS TO FORM:

BY:   
JOSE M. SANCHEZ, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2022-255**

**RESOLUTION APPROVING PAYMENT OF VARIOUS EQUIPMENT MAINTENANCE AGREEMENTS FOR FISCAL YEAR 2022-2023 WITH MULTIPLE EQUIPMENT MANUFACTURERS FOR ALL CITY DEPARTMENTS, FOR AN ANNUAL ESTIMATED COST NOT TO EXCEED \$706,022; AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE EQUIPMENT MAINTENANCE AGREEMENTS ASSOCIATED WITH THE ITEMS IN EXHIBIT B – FISCAL YEAR 2022-2023 EQUIPMENT MAINTENANCE AGREEMENTS (MORE THAN \$50,000)**

WHEREAS, the City purchases office and operational equipment through the purchasing bidding process based on the requirements of the City of Modesto Municipal Code Title 8 Chapter 3; and

WHEREAS, as part of the bidding process for the office equipment and for purchases such as copiers, the City has frequently selected a local vendor to provide maintenance service due to the quick turnaround in service that can be provided with a local vendor compared to a vendor located outside of the Modesto area; and

WHEREAS, as part of preparation of the annual fiscal year budget, the annual costs for this maintenance service have been historically approved by Council through the annual budget adoption process; and

WHEREAS, the Finance Department and Information Technology Department will bring an item to Council every fiscal year to provide transparency for all maintenance agreements being utilized by City Departments; The Purchasing Division will continue to evaluate the cost-effective use of these maintenance agreements especially as the equipment ages over the depreciated life of the asset; and

WHEREAS, **Exhibit A** is an itemized list of the equipment maintenance agreements being utilized by City departments for agreements less than \$50,000 under the City Manager's approval authority; and

WHEREAS, **Exhibit B** provides the itemized equipment maintenance agreements utilized by the City departments greater than \$50,000 requiring authorization by City Council; and

WHEREAS, per MMC 8-3.204(d) states that where the Purchasing Manager, in his or her discretion, determines that a process other than the formal proposal 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, the purchase may be exempt from the formal bid process.

NOW, THEREFORE, BE IT RESOLVED by the Council of City of Modesto that it hereby authorizes the approving of payment for various equipment maintenance agreements for Fiscal Year 2022-2023 with multiple equipment manufacturers for all City Departments.

BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to execute the equipment maintenance agreements for an estimated annual cost of \$706,022.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 7th day of June, 2022, by Councilmember Wright, who moved its adoption, which motion being duly seconded by Councilmember Kenoyer, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Escutia-Braaton, Kenoyer, Madrigal, Ricci, Wright, Mayor Zwahlen

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST:   
DIANE NAYARES-PEREZ, CMC,  
City Clerk

(SEAL)

APPROVED AS TO FORM:

BY:   
JOSE M. SANCHEZ, City Attorney

Vendor/Contractor Name	Business Purpose of Equipment	Proposed - FY 22-23 Maintenance Cost	Funding Source
3SI SECURITY SYSTEMS	Investigatory Tool	\$ 1,898	General Fund
ACTION TARGET, INC.	Target shooting system at the Tactical Training Center	\$ 5,996	General Fund
AIR WEST FILTRATION / BENZ AIR	Station Facilities	\$ 29,283	General Fund
AIRGAS	Life saving equipment	\$ 1,464	General Fund
AMERICAN BARCODE AND RFID	Annual Services Agreement for Barcode Machine	\$ 1,383	General Fund
ARC	Plotter is used to print large size maps of job sites, etc	\$ 999	Water Fund
ARC	Printing of Maps for Planning division	\$ 3,074	General Fund
ASAP TECHNICAL SOLUTIONS	Printing for day-to-day work activities	\$ 1,384	General Fund
WEST COAST DOOR AND GATE	Station facility	\$ 45,255	General Fund
BMI IMAGING	Fujitsu scanner is used by Records to scan and store electronic records for storage.	\$ 1,903	General Fund
BOSS BUSINESS SYSTEMS	Copier for Jennings WWTP - Training Center	\$ 2,154	Wastewater Fund
SURTEC	Investigatory Tool	\$ 3,872	General Fund
CAREDING	Department Copier/Printer/Scanner	\$ 8,729	General Fund
CAREDING	Copier Maintenance	\$ 5,118	Transit
CUMMINS	Currency Counter - detect counterfeit	\$ 751	Water Fund
CUMMINS	Currency Counter - detect counterfeit	\$ 743	Water Fund
CUMMINS	Currency Counter - detect counterfeit	\$ 770	Water Fund
CUMMINS	Currency Counter - detect counterfeit	\$ 743	Water Fund
TECA Data Safe Corporation (CYBERNETIC)	Tape Library Backup/Utility Billing System	\$ 5,094	Water Fund
DELTA WIRELESS	Radio Communications equipment	\$ 39,931	General Fund
EXCEL FITNESS	Fitness equipment	\$ 1,538	General Fund
FARO TECHNOLOGIES	Annual Calibration and Certification of 3-D Laser Scanner to Diagram traffic collisions and homicide scenes	\$ 6,534	General Fund
FIRE SERVICE SPECIFICATION & SUPPLY	Life saving equipment	\$ 4,612	General Fund
HERITAGE-CRYSTAL CLEAN, LLC.	Parts cleaner for fire fighting equipment	\$ 4,612	General Fund
KODAK ALARIS	Printing for day-to-day work activities	\$ 2,307	General Fund
LEHR	Annual Maintenance for LPR systems	\$ 43,924	General Fund
LUCAS BUSINESS SYSTEMS	Scan documents, limited color copy use	\$ 615	General Fund
LUCAS BUSINESS SYSTEMS	Copier for Sutter WWTP - Building 3 - Maintenance	\$ 660	Wastewater Fund
LUCAS BUSINESS SYSTEMS	Printing for day-to-day work activities	\$ 615	General Fund
LUCAS BUSINESS SYSTEMS	Printing for day-to-day work activities	\$ 4,612	Capital Improvement Fund
LUCAS BUSINESS SYSTEMS	Printer	\$ 2,000	Building Services Fund
LUCAS BUSINESS SYSTEMS	Printing for day-to-day work activities	\$ 200	General Fund
LUCAS BUSINESS SYSTEMS	Printing for day-to-day work activities	\$ 3,088	Center Plaza
LUCAS BUSINESS SYSTEMS	Printing for day-to-day work activities	\$ 363	General Fund
MANSCI INC.	Mansci Lab Equipment Extended Warrant	\$ 7,986	Wastewater Fund
NEC CORPORATION OF AMERICA	Automated Fingerprint Identification System - fingerprinting	\$ 11,017	General Fund
QUADIENT	Mail Room Postage & Label Machine	\$ 13,322	General Fund
OPEX	Envelope Opener - opens mixed sized envelopes	\$ 616	Water Fund
PUNTES TECHNOLOGIES	Copier, Fax, Scanner	\$ 1,464	General Fund
RAY MORGAN CO.	Copier for Building Safety and Neighborhood Preservation	\$ 3,412	General Fund
SCANNER ONE	Check Scanner - uploads to RemitPlus for Electronic check file to bank	\$ 743	Water Fund
SCANTRON	Scantron Reader for Recruitment Tests	\$ 1,341	General Fund
SMILE BUSINESS PRODUCTS INC	Day to day copy purposes, parts, labor, staples, maintenance and support ending 4/21/21-501 N Jefferson	\$ 1,744	General Fund
SSD SYSTEMS	Alarm service	\$ 2,307	General Fund

Vendor/Contractor Name	Business Purpose of Equipment	Proposed - FY 22-23 Maintenance Cost	Funding Source
VERTIV	Annual Maintenance for Battery Backup for MPD Servers	\$ 8,500	General Fund
THE RADAR SHOP	Annual Calibration and Certification and repair of Radar and Lidar Guns for mitigating traffic safety.	\$ 4,612	General Fund
SMILE BUSINESS PRODUCTS INC	Purchasing Copier	\$ 1,089	General Fund
RAY MORGAN CO.	Copier for Customer Service - Finance	\$ 1,302	Water Fund
OPEX	Mail Opener & sorter	\$ 3,465	Water Fund
LUCAS BUSINESS SYSTEMS	Printing and making copies for in-house programs and public on an as needed basis	\$ 878	General Fund
TRANE	MCP Fountain Maintenance - Annual	\$ 4,162	Center Plaza
RAY MORGAN CO.	Large Format Printer/Scanner	\$ 4,613	Wastewater Fund
RAY MORGAN CO.	Copier is used to make copies	\$ 606	Water Fund
EKC ENTERPRISES	Fire alarm and fire sprinklers	\$ 4,235	Water Fund
RAY MORGAN CO.	Copier is used to make copies	\$ 4,392	Water Fund
RAY MORGAN CO.	Copier for Sutter WWTP - Environmental Services	\$ 3,749	Wastewater Fund
SEAL ANALYTICAL	Seal Lab Equipment Service Contract	\$ 9,494	Wastewater Fund
CA REDING	Printing for day-to-day work activities	\$ 2,437	General Fund
CA REDING	Printing for day-to-day work activities	\$ 3,355	General Fund
LUCAS BUSINESS SYSTEMS	Copier for day-to-day	\$ 727	Surface Transportation Fund
IMAGEWARE SYSTEMS	Annual hardware maintenance for hardware system in creating ID badges for department	\$ 8,700	General Fund
LUCAS BUSINESS SYSTEMS	Printing and making copies for in-house programs and public on an as needed basis	\$ 7,000	General Fund
ZOOM IMAGING	Accounting Copier	\$ 1,022	General Fund
ZOOM IMAGING	Department Copier-LITT Store	\$ 1,757	General Fund
ZOOM IMAGING	Department Copier	\$ 1,025	General Fund
ZOOM IMAGING	Copier, Fax, Scanner	\$ 3,630	Information Technology
ZOOM IMAGING	Copier for day-to-day	\$ 1,284	Fleet Fund
ZOOM IMAGING	Copier for day-to-day	\$ 1,064	Fleet Fund
ZOOM IMAGING	Copier for day-to-day	\$ 860	Surface Transportation Fund
ZOOM IMAGING	Copier for day-to-day	\$ 1,101	Airport Fund
ZOOM IMAGING	Printer/Copier	\$ 2,306	Capital Improvement Fund
ZOOM IMAGING	Copier for Sutter WWTP - Building 2 - Collections	\$ 1,452	Wastewater Fund
LUCAS/INLAND	Copier, Fax, Scanner	\$ 1,503	General Fund
LUCAS/INLAND	Copier, Fax, Scanner	\$ 4,392	General Fund
LUCAS/INLAND	Copier, Fax, Scanner	\$ 1,500	General Fund
LUCAS/INLAND	Copier, Fax, Scanner	\$ 2,673	General Fund
LUCAS/INLAND	Copier, Fax, Scanner	\$ 2,635	General Fund
LUCAS/INLAND	Copier, Fax, Scanner	\$ 4,615	General Fund
LUCAS/INLAND	Copier, Fax, Scanner	\$ 7,200	General Fund
LUCAS/INLAND	Copier, Fax, Scanner	\$ 7,028	General Fund
LUCAS/INLAND	Copier, Fax, Scanner	\$ 7,028	General Fund
<b>TOTAL</b>		<b>\$ 407,566</b>	

Vendor/Contractor Name	Business Purpose of Equipment	Proposed - FY 22-23 Maintenance Cost	Funding Source
AMERICAN CHILLER CO.	Heating and Cooling of the Modesto Centre Plaza	\$ 75,000	Centre Plaza
STRYKER SALES CORPORATION	Life saving equipment	\$ 151,000	General Fund
MO-CAL OFFICE SOLUTIONS	Copier/Printer/Scanner	\$ 3,012	Water Fund
MO-CAL OFFICE SOLUTIONS	Printer	\$ 2,307	Wastewater Fund
MO-CAL OFFICE SOLUTIONS	Copy documents for City Manager, Council and Auditor's off	\$ 5,445	General Fund
MO-CAL OFFICE SOLUTIONS	Copier for Jennings WWTP - Administration	\$ 3,376	Wastewater Fund
MO-CAL OFFICE SOLUTIONS	Copier for Sutter WWTP - Building 1 - Administration	\$ 5,198	Wastewater Fund
MO-CAL OFFICE SOLUTIONS	Printing for day-to-day work activities	\$ 2,850	Capital Improvement Fund
MO-CAL OFFICE SOLUTIONS	Printing for day-to-day work activities	\$ 2,850	General Fund
MO-CAL OFFICE SOLUTIONS	Copier/Printer/Scanner	\$ 13,382	General Fund
MO-CAL OFFICE SOLUTIONS	Copier/Printer/Scanner	\$ 2,611	Green Waste Fund
MO-CAL OFFICE SOLUTIONS	Copier/Printer/Scanner	\$ 1,777	Surface Transportation Fund
MO-CAL OFFICE SOLUTIONS	Printer/Copier/Scanner	\$ 3,075	Wastewater Fund
MO-CAL OFFICE SOLUTIONS	Printer/Copier/Scanner	\$ 3,075	Wastewater Fund
MO-CAL OFFICE SOLUTIONS	Copier Maintenance	\$ 920	General Fund
MO-CAL OFFICE SOLUTIONS	Copier for Sutter WWTP - Building 2 - Collections	\$ 6,050	Wastewater Fund
MO-CAL OFFICE SOLUTIONS	Copier is used to make copies, scan, fax	\$ 6,859	Water Fund
MO-CAL OFFICE SOLUTIONS	Copier	\$ 694	Solid Waste Fund
MO-CAL OFFICE SOLUTIONS	Copier	\$ 670	General Fund
MO-CAL OFFICE SOLUTIONS	Copier/Printer/Scanner	\$ 1,305	Green Waste Fund
	<b>TOTAL</b>	<b>\$ 298,456</b>	

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2022-256**

**RESOLUTION APPROVING THE PAYMENT OF HARDWARE AND SOFTWARE MAINTENANCE SUPPORT AGREEMENTS FOR FISCAL YEAR 2022-2023 FOR AN ESTIMATED ANNUAL COST NOT TO EXCEED \$6,282,787 AND TO AUTHORIZE THE CITY MANAGER, OR HIS DESIGNEE TO EXECUTE ROUTINE RENEWAL AGREEMENTS ASSOCIATED WITH EXHIBIT B**

WHEREAS, the City has an ongoing need for maintenance/support agreements for hardware and software assets utilized by the City of Modesto; and

WHEREAS, the expenditures for maintenance/support agreements have been approved by Council through the budget process; and

WHEREAS, staff requests the approval for payment of invoices presented for Fiscal Year 2022–2023 for an estimated annual cost not to exceed \$6,282,787.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves payment for invoices for various hardware and software maintenance/support agreements from software companies for Fiscal Year 2022-2023 for an estimated annual cost not to exceed \$6,282,787.


BE IT FURTHER RESOLVED, that the City Manager or his designee is hereby authorized to execute routine renewal agreements over \$50,000 for hardware and software maintenance support during Fiscal Year 2022-2023.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 7th day of June, 2022, by Councilmember Wright, who moved its adoption, which motion being duly seconded by Councilmember Kenoyer, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Escutia-Braaton, Kenoyer, Madrigal, Ricci, Wright, Mayor Zwahlen

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST:   
DIANE NAYARES-PEREZ, CMC,  
City Clerk

(SEAL)

APPROVED AS TO FORM:

BY:   
JOSE M. SANCHEZ, City Attorney

**Exhibit B - Hardware/Software Maintenance Support Agreements  
for Fiscal Year 2022-23 (Over \$50,000)**

Title	Description	Vendor Name	Department	Division	Fund Number	Resolution Number	PO Number	Multi-Year Agreement	Start Date of Current Maintenance Term	End Date of Current Maintenance Term	Agreement Start Date	Agreement End Date	Annual Maintenance Cost w/0 Contingency	Annual Maintenance Cost	Point of Contact
Zoll Fire RMS & ePCR	Modesto Fire Department's Fire Records Management System and Electronic Patient Care Record	Zoll	Fire		0100	2020-277	156679	No	1/22/2019	7/18/2022			\$ 51,348	\$ 56,483	Andrew Hunter
NeoGov	Electronic Recruitment and Onboarding System including Modules: Perform, Custom Employee Integration, Insight, and Onboard	NeoGov	Human Resources	HR Admin	0100	2019-317	154814	No	2/15/2022	2/14/2023			\$ 73,593	\$ 80,952	Dawn Kelley
CAD System Maintenance	22-23 CAD System Maintenance MPD share of 911 Communications Center - billed by Stanislaus County	Central Square Technologies (Formerly Tritech)	Police	Support	0100	2019-317	N/A	No	4/30/2022	4/30/2023			\$ 70,000	\$ 77,000	Smart, Jessica
Cellebrite Premium iPhone	Premium Annual License Renewal and Android devices cracking technology	Cellebrite	Police	Investigations	0100	2019-317	195960	No	2/14/2022	2/13/2023			\$ 110,000	\$ 121,000	Smart, Jessica
Coplink 4.9.1	COPLINK is a multi-agency data sharing platform. Modesto PD and Stanislaus County Sheriff's Office currently pay 50% each for the system that is housed at MPD. MPD, the Sheriff's Office, and the PD's of Oakdale, Ceres, and Turlock all have access. From the LENS (modesto) node, any of these agencies can query against any other participating agency for persons, plates, locations, and document numbers. Annual renewal of Proprietary COPLINK Cloud Software licensing and Data Source Integration Maintenance with Forensic Logic.	ForensicLogic	Police	Support	0100	2019-317	182397	Yes	4/1/2020	3/31/2023	4/1/2020	3/31/2023	\$ 190,000	\$ 209,000	Smart, Jessica
ESRI - ArcGIS 10.6 (PD)	It is a powerful GIS authoring, editing, and geoprocessing application that allows you to create beautiful maps, edit and manage spatial data, and perform the full spectrum of analyses needed to turn your raw data into valuable information. Annual Licensing for ArcGIS Geo-Event Server (Windows) Up to four cores, 365-day Term License. Year 5 of 5	CyberTech	Police	Support	0100	2019-317	180418	No	2/14/2022	2/13/2023			\$ 52,500	\$ 57,750	Owen-Durant, Teri
ESRI Enterprise Advantage Program (EEAP)	Annual subscription for technical assistance and access to training for the geospatial dashboards - year 2	ESRI	Police	Support	0100			No	3/1/2022	3/1/2023			\$ 95,400	\$ 104,940	Smart, Jessica
GeoShield	GeoShield is a data integration and visualization platform, built on top of ESRI ArcGIS. GeoShield provides a map-based dashboard where Calls for Service, Records Management Incidents, Probationers, Police vehicle locations, cameras, and license plate readers are aggregated and displayed on an interactive map. GeoShield also contains full Crime Analysis tools that MPD is looking into replacing CrimeView with.	Spatialitics LLC	Police	Support	0100	2022-063		Yes	2/1/2022	2/1/2025			\$ 70,000	\$ 77,000	Smart, Jessica
Gray Shift - Gray Key	Forensic tool to extract data from iPhones	Gray Shift - Gary Key	Police	Investigations	0100			No	5/31/2022	5/31/2023			\$ 46,000	\$ 50,600	Smart, Jessica
Officer Safety Plan 7	Officer Safety Plan - Evidence.com licensing 4 year contract - Year 2	Axon Enterprise	Police	Patrol	0100	2020-538	207362	Yes	12/18/2020	12/17/2025	8/31/2019	8/30/2021	\$ 594,631	\$ 654,094	Gillespie, Brandon
Vigilant	Software maintenance for LPRs, Software license Key Fee for each camera, Commercial Data Fee and Data Source Fee	Lehr	Police	Patrol	0100		197918	No	3/31/2022	3/31/2023			\$55,300.00	\$ 60,830	Smart, Jessica
E-Builder	e-Builder, Inc. Program Management Information System (Enterprise Capital Program license) unlimited licenses	e-Builder, Inc.	Utilities		1300	2019-317	164095	No	7/1/2021	6/30/2023			\$ 94,285	\$ 103,714	DeBrito, Brandon

**Exhibit B - Hardware/Software Maintenance Support Agreements  
for Fiscal Year 2022-23 (Over \$50,000)**

Title	Description	Vendor Name	Department	Division	Fund Number	Resolution Number	PO Number	Multi-Year Agreement	Start Date of Current Maintenance Term	End Date of Current Maintenance Term	Agreement Start Date	Agreement End Date	Annual Maintenance Cost w/0 Contingency	Annual Maintenance Cost	Point of Contact
Automated Parking System	NowCare Premium Support Agreement Tech support for automated parking system software & hardware	Amano McGann Inc	Public Works	Parking Services	4000	2019-317	173179	Yes	4/1/2020	3/31/2023	4/1/2020	3/31/2023	\$ 50,000	\$ 55,000	Crowley, Patrick
HSQ - Phone Support	HSQ (SCADA)- CMMS manage and maintain regulatory process data	HSQ	Utilities	Water Services, Wastewater	4100 4210	2016-495	112702 Agreement	Yes	11/1/2021	10/31/2025			\$ 47,520	\$ 52,272	Reggiani, Nick
Customer Information System	Naviline utility billing application. Naviline utility billing application includes Naviline Cash Receipts, Naviline CIS, Naviline Land Management, Naviline Accounts Receivable, Naviline Mobile Service Orders, Naviline ICIS VR Credit Card interface, Naviline CIS Voice Response Interface, Naviline Document Management Services (DMS), Naviline CIS Work Orders, Fusion maintenance for online bill pay portal for AR and Utility Billing (\$6,930)	CentralSquare (Formerly Superior)	Finance		4100 0100	2021-226	163267	No	7/1/2022	6/30/2023			\$ 96,850	\$ 106,535	Martin, Jennifer
ESRI - Water	ESRI - GIS for new work order system (Lucity)	ESRI	Utilities		4100	2018-117	165677	No	8/17/2019	8/16/2022			\$ 65,000	\$ 71,500	Echavarria, Melanie
Linko Database Program	CROMEER Compliant Software	Linko Technology	Utilities	Wastewater	4210	020-516	194434	No	4/1/2022	3/31/2023			\$ 87,950	\$ 96,745	Martinez, Jessica
CGI Advantage Performance Budgeting (PB)	Budget Software that is used for department budget entry and generation of the entire operating budget for the City of Modesto. The software is operated as a Software as a Service (SAAS).	CGI	Information Technology		5230	2019-317	176344	Yes	4/1/2022	3/31/2023	4/1/2017	3/1/2026	\$ 102,000	\$ 112,200	Christensen, Stephan
Oracle E-Business Suite (COSMO) 4105695	City-wide ERP application for Finance and HR processes. Support# 4105695	Oracle	Information Technology	Business Applications	5230	2019-317	180213	No	6/1/2022	5/31/2023			\$ 266,597	\$ 293,257	Christensen, DeAnna
Oracle Database	Support# 2344161	Oracle	Information Technology	Business Applications	5230	2019-317	180219	No	6/1/2022	5/31/2023			\$ 132,424	\$ 145,666	Dotson, James
Oracle Financials Expansion	True-up based upon the City's Annual Operating Budget	Oracle	Information Technology		5230			No	4/13/2022	4/12/2023			\$ 19,487	\$ 21,435	Dotson, James
ERP Project Costing	Support# 5163867	Oracle	Information Technology	Business Applications	5230	2019-317	181144	No	6/2/2022	6/1/2023			\$ 6,412	\$ 7,053	Gwarggis, Susan
Oracle Financials #1	Support# 5729309	Oracle	Information Technology		5230	2019-317	164492	No	11/21/2021	11/20/2022			\$ 4,720	\$ 5,192	Gwarggis, Susan

**Exhibit B - Hardware/Software Maintenance Support Agreements  
for Fiscal Year 2022-23 (Over \$50,000)**

Title	Description	Vendor Name	Department	Division	Fund Number	Resolution Number	PO Number	Multi-Year Agreement	Start Date of Current Maintenance Term	End Date of Current Maintenance Term	Agreement Start Date	Agreement End Date	Annual Maintenance Cost w/0 Contingency	Annual Maintenance Cost	Point of Contact
Oracle Financials #2	Support# 18679065	Oracle	Information Technology		5230	2019-317	165168	No	8/9/2021	8/8/2022			\$ 11,858	\$ 13,044	Gwarggis, Susan
Oracle Human Resources #1	Support# 5109761	Oracle	Information Technology	Business Applications	5230	2019-317	181147	No	7/1/2022	6/30/2023			\$ 8,485	\$ 9,334	Gwarggis, Susan
Oracle Human Resources #2	Support# 5896965	Oracle	Information Technology	Business Applications	5230	2019-317	181145	No	7/1/2022	6/30/2023			\$ 7,690	\$ 8,459	Gwarggis, Susan
Oracle Human Resources #3	Support# 6853126	Oracle	Information Technology		5230	2019-317	161856	No	8/3/2021	8/2/2022			\$ 7,249	\$ 7,973	Gwarggis, Susan
Oracle Supply Chain Management	Support# 5137117	Oracle	Information Technology	Business Applications	5230	2019-317	181146	No	7/1/2022	6/30/2023			\$ 1,911	\$ 2,102	Gwarggis, Susan
Oracle Tuning Pack	Support# 5721756	Oracle	Information Technology		5230	2019-317	162446	No	11/16/2021	11/15/2022			\$ 2,840	\$ 3,124	Gwarggis, Susan
Hyland - OnBase Agenda	Agenda Management System	Hyland	Information Technology	Business Applications	5230	2019-474	165054	No	11/1/2021	10/31/2022			\$ 36,000	\$ 39,600	Dotson, James
Hyland - SaaS Fees (Video Hosting)	Video Hosting for Agenda Management System	Hyland	Information Technology		5230	2019-474	169915	No	11/1/2021	10/31/2022			\$ 9,720	\$ 10,692	Dotson, James
CommunityDev TRAKIT Permits	Cloud permit and case-tracking application used by many departments including CED, PW, UPP, etc.	CentralSquare	Community & Economic Dev.		5230			No	1/1/2022	1/1/2023			\$ 213,885	\$ 235,274	Diaz, Oscar
Barracuda ArcTitan Message Archiver	Appliance that stores an archive of Exchange data: Model 650 Cloud Serial Number BAR-MA-585697	SHI	Information Technology		5230	2019-317	175358	No	2/17/2022	2/18/2023			\$ 55,000	\$ 60,500	Calbreath, Phil
Cisco SmartNet	Licensing, support and maintenance for enterprise communication equipment	Telcion	Information Technology	Network / Datacenter	5230			Yes	9/14/2021	9/13/2024	9/14/2021	9/13/2024	\$ 560,000	\$ 205,334	Harless, Kevin
Compellent - SAN	SAN in server closet @ TSP	Dell	Information Technology	Network / Datacenter	5230	2019-317	156369	No	4/20/2022	4/30/2023			\$ 49,688	\$ 54,656	Chavez, Larry
Kovarus/Dell	Annual Maintenance for VXRail, SAN, comm.	Dell/Kovarus	Information Technology	Network Division	5230			Yes	8/1/2021	7/31/2026	7/12/2021	7/11/2026	\$ 250,000	\$ 275,000	Harless, Kevin
Linux (Red Hat)	Red Hat Linux Licensing for Oracle EBS	Solid Networks	Information Technology		5230		114592	No	5/17/2017	5/16/2023			\$ 30,000	\$ 33,000	Harless, Kevin
McAfee Virus Scan Suite	Endpoint threat protection:Anti-malware COM/MPD: 1450 Grant Number 11971371-NAI	CDWG	Information Technology	Network / Datacenter	5230	2019-317	180532	No	5/13/2021	5/12/2023			\$ 19,000	\$ 20,900	Calbreath, Phil
Microsoft Enterprise Agreement	Microsoft 365, Windows	Microsoft	Information Technology	Network / Datacenter	5230			Yes	5/1/2020	4/30/2023	5/1/2020	4/30/2023	\$ 625,000	\$ 687,500	Harless, Kevin
NEC 9300 SW	City Phone System	DTC	Information Technology		5230		150135	No	12/11/2018	12/28/2023			\$ 42,568	\$ 46,825	Villaire, Doug
Server M1000 Maintenance	Hardware Maintenance support for Dell M1000 server platform	Dell	Information Technology	Network / Datacenter	5230			No	6/1/2020	5/31/2023			\$ 52,500	\$ 57,750	Harless, Kevin

**Exhibit B - Hardware/Software Maintenance Support Agreements  
for Fiscal Year 2022-23 (Over \$50,000)**

Title	Description	Vendor Name	Department	Division	Fund Number	Resolution Number	PO Number	Multi-Year Agreement	Start Date of Current Maintenance Term	End Date of Current Maintenance Term	Agreement Start Date	Agreement End Date	Annual Maintenance Cost w/0 Contingency	Annual Maintenance Cost	Point of Contact
Siteimprove	Website quality assurance and ADA (American Disabilities Act) compliance	Siteimprove	Information Technology	Network / Datacenter	5230	2019-317	148308	No	12/5/2021	12/4/2024			\$ 25,625	\$ 28,188	Parker, Trisa
VMWare	Virtual Server Software	Kovarus	Information Technology	Network / Datacenter	5230	2019-317	15439	No	3/27/2022	3/26/2023			\$ 50,000	\$ 55,000	Harless, Kevin
Cisco Maintenance True-up Mid Agreement	Cisco SmartNET & Licensing Maintenance	Cisco	Information Technology	Network	5230			No	7/1/2022	6/30/2023			\$ 100,000	\$ 110,000	Kevin Harless
Wordly	Council Interpretation System	Wordly	Information Technology	Network	5230			No	8/1/2022	7/31/2023			\$ 45,000	\$ 49,500	Kevin Harless
			<b>Total</b>											<b>\$ 4,633,973</b>	

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2022-257**

**RESOLUTION APPROVING THE SOLE SOURCE PURCHASE ORDER WITH  
STARCHASE FOR 25 GLOBAL POSITIONING SYSTEM TRACKING UNITS  
FOR LAW ENFORCEMENT USE FOR A TOTAL COST NOT TO EXCEED  
\$161,698; AND AUTHORIZING THE PURCHASING MANAGER, OR HER  
DESIGNEE TO ISSUE THE PURCHASE ORDER**

WHEREAS, vehicle pursuits are high-risk events that present a public safety challenge for law enforcement; and

WHEREAS, to help mitigate the need for some vehicle pursuits, the Modesto Police Department (MPD) purchased five (5) StarChase Global Positioning System (GPS) tracking units as a pilot program in 2019; and

WHEREAS, StarChase GPS tracking units consist of a vehicle-mounted GPS launcher that is installed in the grill of a police vehicle and deploys a GPS tag onto a vehicle in front of it; and

WHEREAS, after an officer launches a GPS tag onto a vehicle, it can be tracked remotely until the vehicle stops at a location where the suspect can be apprehended with reduced risk to officers, the suspect, and bystanders; and

WHEREAS, since the start of the pilot program, MPD has successfully deployed 35 StarChase GPS units and officers have arrested 28 individuals as a result; and

WHEREAS, due to the demonstrated effectiveness of the StarChase units, MPD desires to purchase 25 additional StarChase units to ensure multiple units are available for use at any given time; 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 follow formal bid procedures; and

WHEREAS, however, MMC 8-204 (b) provides that a purchase may also be exempt from the City's formal bidding requirement where the Purchasing Agency's requirements can be met by a single article or process; and

WHEREAS, additionally, MMC 8-3.204(d) provides that a purchase may also be exempted where the Purchasing Manager, in her discretion, determines that a process other than the formal bid procedures 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, here, StarChase should be exempt from the formal bidding procedure in accordance with MMC 8-3.204(b) since they are the original equipment manufacturer and the only vendor that is able to provide parts, service and support for this stand-alone product in the Electronic/Surveillance, Police Vehicle/Traffic Accessories, and Pursuit Management and Emergency products categories; and

WHEREAS, additionally, StarChase should be exempt from the formal bidding procedure in accordance with MMC 8-3.204(d) as there is currently no other similar alternative on the market; and

WHEREAS, therefore, this purchase qualifies for exemption from the formal bidding process.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves a sole source purchase order with StarChase for an amount not to exceed \$161,698.

BE IT FURTHER RESOLVED that the Purchasing Manager, or her designee, is hereby authorized to issue the purchase order.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 7th day of June, 2022, by Councilmember Wright, who moved its adoption, which motion being duly seconded by Councilmember Kenoyer, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Escutia-Braaton, Kenoyer, Madrigal, Ricci, Wright, Mayor Zwahlen

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST:   
DIANE NAYARES-PEREZ, CMC,  
City Clerk

(SEAL)

APPROVED AS TO FORM:

BY:   
JOSE M. SANCHEZ, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2022-258**

**RESOLUTION APPROVING AN AGREEMENT WITH NATIONAL PLANT SERVICES, INC., HAYWARD, CA, FOR PIPE INSPECTION AND ASSESSMENT SERVICES FOR THE RIVER TRUNK INSPECTION AND ASSESSMENT PROJECT IN THE AMOUNT OF \$163,000 FOR THE IDENTIFIED SCOPE OF SERVICES, PLUS \$16,300 IN ADDITIONAL SERVICES, IF NEEDED, FOR A TOTAL AMOUNT NOT TO EXCEED \$179,300 AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE AGREEMENT**

WHEREAS, the River Trunk was originally constructed in the 1940s; and

WHEREAS, the River Trunk is approximately five miles long and conveys flows from six major tributaries of the City's collection system; and

WHEREAS, corrosion is present in the pipeline interior throughout its length; and

WHEREAS, staff recommends the use of a consultant to preform an inspection and assessment due to the specialized technical and operational requirements; and

WHEREAS, in accordance with Modesto Municipal Code 8-3.204(a) Exceptions to Formal Bidding Requirements, this agreement is for professional services and therefore, exempt from the bid requirement; and

WHEREAS, staff recommends approval of an agreement with National Plant Services, Inc., of Hayward, CA for Inspection and Assessment Services for the River Trunk Inspection and Assessment Project.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves an agreement with National Plant Services, Inc., of Hayward, CA for Inspection and Assessment Services for the River Trunk Inspection and Assessment Project in the amount of \$163,000, for the identified scope of services, plus \$16,300 in additional services, if needed, for a total not to exceed amount of \$179,300.

BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to execute the agreement in a form approved by the City Attorney.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 7th day of June, 2022, by Councilmember Wright, who moved its adoption, which motion being duly seconded by Councilmember Kenoyer, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Escutia-Braaton, Kenoyer, Madrigal, Ricci, Wright, Mayor Zwahlen

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST.   
DIANE NAYARES-PEREZ, CMC,  
City Clerk

(SEAL)

APPROVED AS TO FORM:

BY:   
JOSE M. SANCHEZ, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2022-259**

**RESOLUTION AMENDING THE FISCAL YEAR 2021/22 MULTI-YEAR PROGRAM BUDGET IN THE AMOUNT OF \$189,300 TO BE TRANSFERRED INTO THE PROJECT FROM WASTEWATER FUND RESERVES IN ORDER TO FULLY FUND THE RIVER TRUNK INSPECTION AND ASSESSMENT PROJECT**

WHEREAS, certain budgetary transactions are necessary in the amount of \$189,300, in order to fully fund the River Trunk Inspection and Assessment Project; and

WHEREAS, the Fiscal Year 2021/22 Multi-Year Program Budget must be amended.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the amendment of the Fiscal Year 2021/22 Multi-Year Program Budget in the amount of \$189,300.

BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to implement the provisions of this resolution.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 7th day of June, 2022, by Councilmember Wright, who moved its adoption, which motion being duly seconded by Councilmember Kenoyer, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Escutia-Braaton, Kenoyer, Madrigal, Ricci, Wright, Mayor Zwahlen

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST.   
DIANE NAYARES-PEREZ, CMC,  
City Clerk

(SEAL)

APPROVED AS TO FORM:

BY:   
JOSE M. SANCHEZ, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2022-260**

**RESOLUTION APPROVING THE ADOPTION OF THE FISCAL YEAR 2022-23  
ANNUAL AND MULTI-YEAR OPERATING BUDGETS AND THE 2022-23  
CAPITAL IMPROVEMENT PROGRAM FOR THE CITY OF MODESTO AND  
THE RELATED INTER-FUND TRANSFERS**

WHEREAS, pursuant to the Charter of the City of Modesto, the City Manager presented the preliminary Draft Operating Budget and Capital Improvement Program for Fiscal Year 2022-23 to the Finance Committee at workshops held on April 19, April 20, and April 21, 2022, and

WHEREAS, the Finance Committee reviewed the preliminary Draft Operating and Multi-Year Operating Budgets and the Capital Improvement Program in a series of televised public workshops on April 19, April 20, and April 21, 2022, and at a joint Planning Commission/Finance Committee meeting held on May 16, 2022, and

WHEREAS, the Finance Committee recommended the City Manager's preliminary Draft Operating and Multi-Year Budgets to the full City Council for consideration, and

WHEREAS, the Finance Committee recommended the proposed Capital Improvement Program budget to the full City Council for consideration, and

WHEREAS, in accordance with the City Charter, a duly noticed public hearing was scheduled on June 7, 2022 during which the City Council considered the recommendations of the Finance Committee relating to the preliminary Draft Operating and Multi-year budgets and the Capital Improvement Program, and

WHEREAS, prior to any discussion of the CIP budgets and prior to the final adoption, the City Council by separate motion considered each CIP project that could be

-

the source of a potential conflict of interest to one or more members of the City Council without the participation of those members, and

WHEREAS, the adoption of the Final Proposed Budget for FY 2022-23 includes the proposed Operating Budget, Multi-Year operating budget, Capital Improvement Program budget, approved adjustments, approved addendums, transfers in and out, adoption of budget controls and financial policies, and

WHEREAS, the effective date of the adopted budget for FY 2022-23 shall be July 1, 2022, and

WHEREAS, copies of the Final Proposed Operating and Multi-year budgets and the Capital Improvement Program 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 that it hereby approves the adoption of the Final Proposed Operating Budget, Multi-Year Budget, and Capital Improvement Program Budget for Fiscal Year 2022-23 inclusive of the Mayor's Final Budget Modifications, adjustments, and addendums to be in effect July 1, 2022.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 7th day of June, 2022, by Councilmember Wright, who moved its adoption, which motion being duly seconded by Councilmember Escutia-Braaton, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Escutia-Braaton, Kenoyer, Madrigal, Ricci, Wright, Mayor Zwahlen

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST:   
DIANE NAYARÉS-PÉREZ, CMC,  
City Clerk

(SEAL)

APPROVED AS TO FORM:

BY:   
JOSE M. SANCHEZ, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2022-261**

**RESOLUTION APPROVING THE BUDGET PRINCIPLES, POLICY ON  
WORKERS COMPENSATION FUND FOR FY 2022-23, AND THE OPERATING  
BUDGET POLICY AS OUTLINED IN THE FISCAL YEAR 2022-23 FINAL  
PROPOSED BUDGET**

WHEREAS, each year the City Council's Finance Committee makes recommendations regarding the upcoming Fiscal Year Operating Budget and Capital Improvement Program and Budget Principles, and

WHEREAS, in the development of the FY 2022-23 Operating Budget, the Finance Committee reviewed and recommended for City Council consideration the **attached** Proposed Budget, Policy on the Workers Compensation Fund for FY 2022-23, Budget Principles, and Operating Budget Policy.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the Budget Principles, Operating Budget Policy, and Policy on Workers Compensation Fund as shown in **Attachment 4 and Exhibits 2 and 3**, which are incorporated by reference herein.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 7th day of June, 2022, by Councilmember Wright, who moved its adoption, which motion being duly seconded by Councilmember Escutia-Braaton, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Escutia-Braaton, Kenoyer, Madrigal, Ricci, Wright, Mayor Zwahlen

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST   
DIANE NAYARES-PEREZ, CMC,  
City Clerk

(SEAL)

APPROVED AS TO FORM:

BY:   
JOSE M. SANCHEZ, City Attorney

## Recommended Budget Principles

### 1. Annually Adopt a Structurally Balanced Budget

A structurally balanced budget means on-going revenues and on-going expenditures are in balance with on-going revenues meeting or exceeding expenditures during the same time period. If a structural imbalance occurs, a plan must be developed and implemented to bring the budget back into balance.

### 2. Use of One-Time Resources

Once brought into balance, one-time revenues (excess reserves about reasonable risk calculations, revenue spikes, prior year budget savings, sale of property, etc) shall not be used for current or new on-going operating costs. Examples of appropriate uses of one-time revenues include early retirement of debt, capital expenditures without significant operating or maintenance costs, and other non-reoccurring expenditures.

### 3. Budget Revisions

New programs, services, or staffing requests are considered in light of the Council's priorities and shall include a spending offset at the time of the request so that the request has a net-zero impact on the budget.

### 4. Reserves

All City funds must maintain an adequate reserve level and/or ending fund balance as determined annually as appropriate for each fund. For the General Fund, the contingency reserve amount, which is a flat \$7 million, shall be maintained. Any use of the General Fund contingency reserve will require a majority vote of the Council.

### 5. Debt Issuance

Long-term General Fund debt will not be incurred to support on-going operating costs (other than debt service) unless such issuance achieves net operating cost savings and such savings can be independently verified. All General Fund debt issuances shall identify a method of repayment or have a dedicated revenue source.

### 6. Employee Compensation

Recognizing that employees are the City's major resource, negotiations for employee compensation shall focus on the total compensation costs (e.g. increases in salary, steps, and benefit costs) while considering the City's fiscal condition, revenue growth, and changes in the cost of living.

### 7. Capital Improvement Projects

Capital Improvement Projects shall not proceed for projects with annual operating and maintenance costs in the General Fund without City Council certification that funding will be available in the applicable year of the cost impact. Certification shall demonstrate that the entire cost of the project, including operating and maintenance costs, will not require a decrease in the City's core services.

### 8. Fees and Charges

The development of fees and fee increases shall be utilized where appropriate to assure fee program costs are fully recovered by fee revenue.

**9. Grants**

Staff will seek out, apply for, and effectively administer grants that address the City's priorities, policy objectives, and provide an overall positive benefit to the City. Before a grant is pursued, staff shall provide a detailed fiscal analysis addressing both the immediate and long-term costs and benefits of the grant. With the exception of pilot projects, one-time grant revenues shall not be used to begin or support the costs of on-going programs.

**10. General Plan**

The General Plan is the primary long-term fiscal planning tool. Recommendations to create new development capacity beyond the existing General Plan shall be analyzed to ensure that capital improvements and operating/maintenance costs are within the City's financial capabilities.

**11. Performance Measurement**

All requests for funding shall include performance measure data so funding requests can be reviewed and approved in light of anticipated service level outcomes.



## **CITY OF MODESTO OPERATING BUDGET POLICY**

### **INTRODUCTION**

The purpose of this policy is to identify roles, responsibilities, and actions related to the preparation and monitoring of the City of Modesto's annual operating budget. The operating budget is adopted annually at the fund level by the City Council. The budget provides a detailed estimate of how much the City needs to spend in its fiscal year to meet its ongoing financial obligations and provide programs and services.

### **RESPONSIBILITIES**

Per the City Charter (Section 1302.1 through 1304), each year:

The City Manager shall, on or before December 15 of each year, submit to the Mayor and to the Council a five (5) year economic forecast of expenditures and revenues for each City Department.

The Mayor shall, on or before January 15 of each year, prepare and deliver to the Council the Mayor's Proposed Budget Priorities and Direction for both the City's Capital Budget and for the City's Operating Budget.

The City Manager shall, on or before February 1 of each year, prepare and deliver to the Mayor and to the Council a Capital and Operating Mid-Year Budget Report for each City Department.

The Mayor shall, on or before February 15 of each year prepare and deliver to the Council the Mayor's Budget Message which shall include:

- a) A statement of the fiscal priorities which the City should adopt for the ensuing fiscal year; and
- b) Which City services, departments, offices or agencies the Mayor proposes to be expanded or reduced.

The Council shall hold a public hearing to consider the Final Mayor's Budget Message and to make any additions or revisions the Council deems advisable. Upon closing of the public hearing, the Council shall approve the Mayor's Budget Message as presented, or as revised.

By April 30 of each year, the City Manager shall send to Council a draft budget consisting of a careful estimate of the amounts of expenditures required for the business and proper conduct of the various departments, offices, boards, and commissions of the City, over which the City Manager has control during the next ensuing year. The City Manager shall also include in the draft budget an estimate of the amount of income/revenues that are to be included as part of the

draft budget. The draft budget shall accurately reflect the recommendations and priorities specified in the Final Mayor's Budget Message as adopted by the Council.

At least thirty (30) days prior to the new fiscal year, the Mayor shall prepare and deliver to the Council the Mayor's Final Budget Modifications of the draft budget. Following the receipt of the Mayor's Final Budget Modifications, the Council shall consider and review the draft budget as submitted by the City Manager together with the Mayor's Final Budget Modifications and make such revisions as the Council may deem advisable. The resulting document shall be deemed the "Proposed Budget."

After the creation of the "Proposed Budget" document, the Council shall determine the time for the holding of a public hearing upon the "Proposed Budget" and a notice shall be posted not less than ten (10) days prior to said hearing. This public hearing will be used by the Council to allow for interested persons desiring to be heard an opportunity to speak upon the "Proposed Budget."

At the conclusion of the public hearing, the Council shall further consider the "Proposed Budget" and make any revisions that it may deem advisable; and thereafter it shall adopt the budget with revisions, if any. Any revisions may add or increase programs or amounts or may delete or decrease programs or amounts except expenditures required by law or for debt service provided that no budget revision to the budget shall increase proposed expenditures to an amount greater than the total estimated income plus unencumbered available reserves and estimated unencumbered balances of funds carried over from the preceding fiscal year.

The Mayor is responsible for preparing and delivering to the City Council the Mayor's Proposed Budget Priorities and Direction for capital and operating budgets, the Mayor's budget message, and final budget modifications.

The City Manager is responsible for preparing and delivering to the Mayor and Council a five-year forecast of expenditures and revenues, mid-year budget reports, and a draft budget.

The City Council is responsible for reviewing the proposed budget, holding a public hearing, revising the draft budget as needed, and approving the budget.

Under the Modesto Municipal Code (MMC) 2-3.401, the Finance Department is responsible for annually preparing and submitting to the City Manager a proposed preliminary budget prior to the beginning of the next succeeding fiscal year, and maintaining a system of budget control to ensure that monies are available and appropriated.

## **POLICY**

### **Budget Development**

1. It is the policy of the City of Modesto to prepare an annual budget using the accounting basis that is in conformance with generally accepted accounting principles (GAAP). To prepare the organization's budget, the Budget Manager shall gather proposed budget information from all Department directors (and others with budgetary responsibilities).
2. Budgets proposed and submitted by each department should be accompanied by a narrative explanation of the sources and uses of funds and explaining all material fluctuations in budgeted amounts from prior years. All requests for additional personnel shall include a narrative explaining the need for an increase in staff potential duties for the new

employee and expected salary. All requests for capital shall include a narrative explaining the reason for the need of the respective item.

3. After appropriate revisions and a compilation of all department budgets a draft of the organization-wide budget is prepared by the Budget Manager. The appropriated budget is prepared by:
  - Fund (e.g. General Fund)
  - Department (e.g. Police).
  - Division ( e.g. Field Operations)
  - Revenue/Expense Account (e.g. Sales and Use Tax/Office Supplies)
4. The draft of the organization-wide budget, individual departments' budgets as well as the narratives, and multi-year project budgets are presented to the City Manager for discussion, revision, and initial approval. Each individual capital request is evaluated to determine whether the capital item is needed to clear a safety issue a legal requirement or to improve customer service. This process is separate from the creation and adoption of the City's Capital Improvement Program (CIP). The policy for the CIP adoption follows a different set of guidelines. All request for additional staff are reviewed for viability based on the economic condition of the City.
5. At a public hearing the Mayor submits to the City Council a proposed operating budget for the fiscal year commencing the following July 1. The operating budget includes proposed expenditures and the means of financing them. The proposed budget is presented to City Council for discussion, revision and adoption.
6. Public hearings are conducted at City Hall to obtain citizen input. Prior to July 1, the budget is adopted by motion of the City Council.
7. It is the policy of the City of Modesto to adopt a final budget prior to July 1 of the new fiscal year. The purpose of adopting a final budget at this time is to allow adequate time for the Budget Division to input the budget into the accounting system and establish appropriate budget and reporting procedures to ensure proper classification of activities and comparison of budget versus actual once the year begins.
8. The City will prepare and annually refine written goals and policies to guide the preparation of financing, spending, and performance plans for the City budget. Proposed budgets will comply with the adopted budget polices and Council priorities.
9. Department and program managers will not exceed the Council-approved appropriations in any fund. The City Council may approve modifications to these appropriations throughout the year as warranted by revenue collections and activity demands.
10. Enterprise funds and other non-general fund operations should be self-supporting and should maintain reserve levels that are adequate to protect against fluctuations in revenue and expenditure levels. Activities that deviate from this requirement shall be identified for the City Council annually at the time of budget adoption. Exempt from this requirement are those funds that account solely for grant funds.
11. Interest shall be allocated quarterly to all funds based on their average monthly balances during each quarter.
12. Costs charged between funds such as force-account labor and other direct costs shall be charged on the basis of actual cost and not on the budgeted amount, unless a separate contract exists between the managers of the two programs allowing the use of the budgeted amount as the basis for the charge.
13. Appropriations for certain grants and on-going Capital Improvement Program projects that were authorized in previous years and that are not fully expended shall be deemed valid until revoked. Appropriations related to certain developer-funded expenditures may also be treated as multi-year appropriations.

#### Inter-fund Transfers and Loans

1. Ongoing operating program costs will not exceed the amount of ongoing revenue to finance those costs. Inter-fund loans will not be used as a funding mechanism to address ongoing gaps between revenues and costs. If a new program is added on an ongoing basis, an ongoing revenue source will be identified to fund the program costs. Any available carryover balance will only be used to offset one-time costs.
2. Unless direction is given at the time an inter-fund transfer is approved that the amount to be transferred between funds is not subject to adjustment based on a share of cost formula, all inter-fund transfers shall be based upon the sending fund's pro rata share of any project costs or other obligation that is the basis for the transfer. Therefore, a reconciliation of the share of costs allocable to the fund(s) from which resources are to be transferred shall be performed prior to the year-end closing of the city's financial records and shall become the basis for determining the actual amount of any resources to be transferred. It is the intent of this policy that any transfers designed to provide a subsidy to the operations of another fund shall not exceed the amount needed to provide sufficient resources to make revenues equal expenditures unless other direction is provided by the City Council.
3. All inter-fund transfers and their purpose shall be identified to the Council annually, at the time of the budget adoption.
4. All inter-fund transfers between a fund and Capital or Non-Capital project shall not lapse at the end of the fiscal year but instead shall remain active until the project is completed and the funding is no longer needed. Inter-fund transfers will be evaluated at each year-end and then the remaining funds will be re-appropriated in the new fiscal year as the inter-fund transfer continues on for the continuing project.
5. Loans between funds and loans to other component units of the city should be considered in light of a multi-year business plan that demonstrates a reasonable ability to repay the loan. All inter-fund loans and loans to component units, either existing or proposed, shall be identified for the City Council at the time of budget adoption. Generally, inter-fund loans and loans to component units shall be established with a repayment deadline that reflects the earliest feasible opportunity for repayment of the loan. Interest rates charged on the loan shall be based on the actual rate of return earned by the City's investment portfolio during the 12-month period immediately preceding a payment date.
  - a. Note that the terms and conditions for existing loans between the City and the former Redevelopment Agency are governed by one or more separate resolutions adopted at the time the loans were approved and are subject to the laws put into place by recent redevelopment dissolution legislation passed by the State of California.

## Reserves

1. *General Fund Reserve*: The Council has adopted a policy that uses the Fund Balance Guidelines for the General Fund that has been established by the Government Finance Officers Association (GFOA). The Council has established the following policies pertaining to General Fund reserves:
  - The General Fund's minimum reserve requirement should be maintained at a level of no less than the average of two months of regular General Fund operating expenditures. The amount of General Fund reserves are to be calculated as the total of the Emergency Reserves category.
  - Any unassigned reserves/carryover in the General Fund at the end of a fiscal year will be distributed out based upon the following guidelines:
    - 1/3 of the unassigned reserves/carryover will be distributed to the Emergency Reserves category.

- 1/3 of the unassigned reserves/carryover will be used to fund pension obligations (i.e. pension trust funding, etc.)
  - 1/3 of the unassigned reserves/carryover will be used to fund deferred maintenance.
2. *Fund Replacement Reserves:* In order to provide future resources for the replacement or repair of depreciable assets, each fund shall establish a list of depreciable assets, including useful lives and replacement costs that will determine the amount to be set-aside annually to allow the timely replacement or repair of these assets. Each program manager shall also establish a plan for funding the reserve and shall disclose the adequacy of the reserve level annually to the City Council as part of the annual budget adoption process.

### Fund Balance Information Requirements

1. The requirements of GASB Statement No. 54 are intended to enhance the usefulness, including the understandability, of fund balance information, in the financial statements. The City will spend the most restricted dollars before less restricted, given equal eligibility, in the following order:
- Non-Spendable - if funds become spendable (inventories, prepaid amounts)
  - Restricted (grants, bond proceeds)
  - Committed (capital acquisitions, pending projects)
  - Emergency Reserves (set aside funds in the General Fund that can only be appropriated through Council action)
  - Assigned (purchase orders, encumbrances)
  - Unassigned (residual fund balance after deducting the other fund balance categories)

### Budget Adjustment Authority

1. Any adjustment that would appropriate any amount from the General Fund Emergency Reserves must receive Council approval to be appropriated. The authority to approve any other type of budget adjustment in the amount of \$25,000 or less is delegated to the Budget Manager. The authority to approve any other type budget adjustment between \$25,001 and \$50,000 is delegated to the City Manager.
2. Authority for any budget adjustment over \$50,000 is delegated to the parties shown below with the exception of appropriations from the General Fund Emergency Reserves:
- City Council
    - Appropriation of undesignated reserves
    - Appropriation of new revenues
      - Does not include Developer Payments
    - Budgeting inter-fund transfers
      - Does not include adjustments to budgeted transfers where the intent is to subsidize an enterprise operation as shown in item (v) under the City Manager's budget adjustment authority
    - Creation of inter-fund loans
    - Creation of, or increase in, any multi-year appropriation except for the allocation of interest
    - Addition of permanent staff positions
    - Appropriation of payments for new indebtedness including operating leases
    - All other budgetary actions not delegated to another official

- City Manager
  - Adjust appropriations between departments within a fund
  - Change any capital equipment appropriation
  - Appropriate reserves, excluding General Fund Emergency Reserves, for litigation on a case-by-case basis
  - Adjustments to Inter-fund transfers intended to balance enterprise fund operations where the cumulative total of any adjustment does not increase the original City Council approved appropriation by more than \$50,000
  - Appropriate Developer Payments not previously budgeted
  - Annexation Deposits
  - Special District Formation Deposits
  - Developer Deposits to be recognized as revenue
  
- Budget Manager
  - Appropriate unbudgeted grant interest
  - Revise the allocation of Internal Service Fund charges between departments, provided that the total allocated amount does not increase (any such changes to the allocation shall not result in an increase or decrease to the total amount of discretionary appropriations provided to the affected departments)
  - Changing any CIP line item appropriation
  - Revoke multi-year appropriations
  - Close Capital Improvement Program or Non-Capital projects
  - Make technical budget corrections to implement the intent of Council-approved actions and resolutions
  - Transfer fiscal appropriations between sub-funds of a single fund (except where this changes appropriation amounts for temporary agency labor and/or capital equipment purchases over \$25,000)
  
- Department Director
  - Transfer appropriations within a department, within a single fund (excludes appropriations related to capital equipment, capital improvement program)
  - Acting as a designee of the City Manager, the Parks, Recreation, & Neighborhoods Director shall be authorized to appropriate private donations or grants made to the Fund Development Program of the Parks, Recreation, & Neighborhoods Department for specified purposes up to \$25,000

### Monitoring Performance

1. It is the policy of the City of Modesto to monitor its financial performance by comparing and analyzing actual results with budgeted results. This function shall be performed periodically by the Budget Manager.
2. Budgetary review
  - Budget-to-actual comparisons are made on a monthly basis by the Budget Division.
  - Budget-to-actual comparisons are presented for City Council review at mid-year and on an as needed basis.
  - Budget-to-actual comparisons are provided in the comprehensive annual financial report (CAFR) for each individual governmental fund, for which an appropriated annual budget has been adopted.

3. The City maintains an encumbrance accounting system of purchase orders and contracts as a means of accomplishing budgetary control. Purchase orders are reviewed to ensure that funds are available and that requests are properly authorized prior to being released to vendors.

**Fiscal Year 2022-23  
Proposed Policies**

1. Approve the initiation of a rate reduction for all funds that make an annual payment into the Worker's Compensation Fund for Fiscal Year 2022-23 at the rate of 84 percent (16 percent rate reduction).

 <p><b>CITY OF MODESTO</b> <b>COUNCIL AGENDA REPORT</b></p>	<p><b>Budget Adoption</b></p>
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Date: June 7, 2022

TO: Mayor and City Council

THROUGH: Joseph P. Lopez, City Manager

FROM: Christina Alger, Director of Human Resources  
Stephan Christensen, Budget Manager

SUBJECT: Workers Compensation Rate Reduction

CONTACT: Stephan Christensen, Budget Manager, [schristensen@modestogov.com](mailto:schristensen@modestogov.com),  
209-577-5390

**DESCRIPTION:**

Consider providing policy direction regarding:

1. The initiation of a rate reduction for all funds that make an annual payment into the Worker’s Compensation Fund for Fiscal Year 2022-23 at the rate of 84 percent ( 16 percent rate reduction).

(Funding Source: General Fund and Non-General Fund Impact)

**FISCAL IMPACT:**

For the 2022-23 fiscal year, the total workers’ compensation premium assessment charge to all funds is recommended to be \$6.76 million with the General Fund contributing approximately \$5.38 million. A recent evaluation of the Workers Compensation Fund’s reserve levels has resulted in the decision to initiate a rate reduction for fiscal year 2022-23 at the level of 16 percent. This rate reduction will equate to a lower funding level in workers compensation contributions from all funds in FY 2022-23. This action will result in a refunding to the General Fund of \$860 thousand and a proportional savings to the non-general funds that pay premiums into the Workers’ Compensation Fund in the amount of \$221 thousand, for total savings of \$1.08 million. The existing cash balances in the fund will be sufficient to continue payment of actual claim costs on an annual basis.

**BACKGROUND:**

The city self-assesses a charge to all programs with employees to cover the cost of providing workers compensation benefits. The amount charged to each program is based on a fixed percent of the total salaries paid and a factor assigned using the actual claims history of the program’s employees. For the 2022-23 fiscal year, the total premium assessment to all funds is approximately \$6.76 million. Though funding for the workers compensation fund will be at a lower

amount due to the initiation of a rate reduction in FY 2022-23, the fund will have sufficient reserves to cover the decrease in revenues.

Approved by:

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Christina Alger, Director of Human Resources

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Steve Christensen, Budget Manager

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Joseph P. Lopez, City Manager

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2022-262**

**RESOLUTION AMENDING THE POSITION ALLOCATION FOR FISCAL  
YEAR 2022-23 AS ADOPTED IN THE OPERATING BUDGET.**

WHEREAS, a Position Allocation for the City of Modesto was adopted by Modesto City Council on June 30, 2021, as part of the Annual Budget of the City of Modesto for Fiscal Year 2021-22, and

WHEREAS, classification studies are conducted to ensure that a classification system is equitable and consistent within an organization and that positions are correctly classified, and

WHEREAS, per Personnel Administrative Order 2.2-87-12, a classification study may be conducted in response to a reclassification request, to develop/revise a classification specification, or to assist in a reorganization, and

WHEREAS, classification studies were conducted by Human Resources to determine appropriate classifications, and

WHEREAS, position changes will be effective the pay period in which July 1, 2022 falls, (Pay Period beginning June 21, 2022), unless otherwise noted, and

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves amending the Position Allocation and the Fiscal Year 2022-23 Operating Budget for various departments as follows:

1. Freeze one (1) Financial Analyst III in the Budget Division (02110) of the City Manager Office Department.
2. Freeze one (1) Senior Business Analyst in the Economic Development Division (14180) of the Community and Economic Development Department.

3. Allocate one (1) Administrative Office Assistant II in the Neighborhood Preservation Division (14220) of the Community and Economic Development Department.
4. Allocate one (1) Account Clerk II in the Accounts Receivable Division (12115) of the Finance Department.
5. Reallocate one (1) Account Clerk II to one (1) Senior Account Clerk in the Utilities and Collections Division (12470) of the Finance Department.
6. Allocate one (1) Administrative Office Assistant II in the Administration Division (18110) of the Fire Department.
7. Freeze one (1) Police Officer in the Administration Division (19110) of the Police Department.
8. Freeze four (4) Police Officers in the Investigations Services Division (19220) of the Police Department.
9. Freeze one (1) Police Officer in the Field Operations Division (19320) of the Police Department.
10. Freeze one (1) Police Officer in the COPS Hiring Program Ineligible Costs Division (19383) of the Police Department.
11. Freeze one (1) Police Captain in the Records and Support Division (19420) of the Police Department.
12. Allocate one (1) Police Administrator in the Records and Support Division (19420) of the Police Department.
13. Allocate one (1) Police Technician in the Records and Support Division (19420) of the Police Department.

14. Allocate one (1) Parks Project Coordinator in the Parks Planning and Development Division (32020) of the Parks, Recreation and Neighborhoods Department.
15. Freeze one (1) Cultural Services Manager in the Historical Properties Division (34110) of the Parks, Recreation and Neighborhoods Department.
16. Allocate one (1) Maintenance Worker II in the Operations Services Administration Division (35220) of the Parks, Recreation and Neighborhoods Department.
17. Move one (1) Administrative Services Technician II in the Construction Administration Division (42020) to the Administration Division (41010) of the Utilities Department.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 7th day of June, 2022, by Councilmember Wright, who moved its adoption, which motion being duly seconded by Councilmember Escutia-Braaton, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Escutia-Braaton, Kenoyer, Madrigal, Ricci, Wright, Mayor Zwahlen

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST:   
DIANE NAYARES-PEREZ, CMC,  
City Clerk

(SEAL)

APPROVED AS TO FORM:

BY:   
JOSE M. SANCHEZ, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2022-263**

**RESOLUTION AMENDING THE CLASSIFICATION PLAN FOR THE  
CITY OF MODESTO TO CREATE THE CLASSIFICATION OF POLICE  
ADMINISTRATOR.**

WHEREAS, a Position Classification Plan for the City of Modesto was adopted by Modesto City Council Resolution No. 2021-283 pursuant to Rule 2.2 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:

1. **CLASSIFICATION PLAN AMENDED.** The Position Classification Plan of the City of Modesto is hereby amended to create the classifications of Police Administrator at salary range 2453 - unrepresented.
2. **EFFECTIVE DATE.** This Resolution shall become effective the pay period in which July 1, 2022 falls, (Pay Period beginning June 21, 2022).

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 7th day of June, 2022, by Councilmember Wright, who moved its adoption, which motion being duly seconded by Councilmember Escutia-Braaton, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Escutia-Braaton, Kenoyer, Madrigal, Ricci, Wright, Mayor Zwahlen

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST:   
DIANE NAYARES-PEREZ, CMC,  
City Clerk

(SEAL)

APPROVED AS TO FORM:

BY:   
JOSE M. SANCHEZ, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2022-264**

**RESOLUTION APPROVING A LEAVE BANK PURCHASE OPTION FOR  
MODESTO CITY EMPLOYEES ASSOCIATION, MODESTO CONFIDENTIAL  
AND MANAGEMENT ASSOCIATION, AND MODESTO POLICE AND FIRE  
NONSWORN ASSOCIATION AND AUTHORIZING THE CITY MANAGER OR  
HIS DESIGNEE TO EXECUTE THE TRANSACTIONS.**

WHEREAS, the City met and conferred with Modesto City Employees Association (MCEA), Modesto Confidential and Management Association (MCMA), and Modesto Police and Fire Nonsworn Association (MPNSA) to discuss offering the Leave Bank Purchase option, and

WHEREAS, employees may purchase an additional leave bank of forty-eight (48) hours by a bi-weekly payroll deduction equivalent to two (2) hours, and

WHEREAS, the City shall create for each eligible employee an additional leave bank of 48 hours on pay period ending July 4, 2022. All eligible employees must exhaust the purchased leave bank no later than pay period ending June 19, 2023, and

WHEREAS, two (2) hours of pay will be deducted over 24 pay periods beginning pay period ending July 4, 2022 through pay period ending May 22, 2023, and

WHEREAS, eligible employees may elect to use leave bank purchase option hours in a minimum of two (2) hour increments, and

WHEREAS, Overtime Exempt employees shall record leave bank purchase option hours on their timesheets only at the time the leave bank purchase option hours are actually taken as time off. Overtime Exempt employees shall not work more than forty (40) hours during any workweek within which they take leave bank purchase option hours, and

WHEREAS, during this designated leave bank purchase option deduction period, the City will continue to report each employee's full base pay rate to CalPERS. All employees' deductions go to UAL payment by making additional direct payments (ADP) or Section 115 Trust deposits as agreed to with bargaining units.

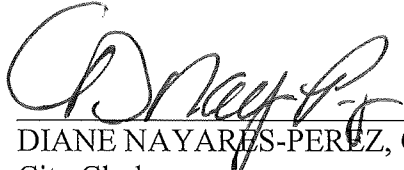
NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves a Leave Bank Purchase Option for Modesto City Employees Association (MCEA), Modesto Confidential and Management Association (MCMA), And Modesto Police and Fire Nonsworn Association (MPNSA) and authorizing the city manager or his designee to execute the transactions.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 7th day of June, 2022, by Councilmember Wright, who moved its adoption, which motion being duly seconded by Councilmember Escutia-Braaton, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Escutia-Braaton, Kenoyer, Madrigal, Ricci, Wright, Mayor Zwahlen

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST:   
DIANE NAYARES-PEREZ, CMC,  
City Clerk

(SEAL)

APPROVED AS TO FORM:

BY:   
JOSE M. SANCHEZ, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2022-265**

**RESOLUTION ADOPTING THE COUNCIL UNFUNDED PENSION LIABILITY  
POLICY.**

WHEREAS, the City of Modesto (the “City”) provides defined benefit retirement through the California Public Employees’ Retirement System (“CalPERS”). CalPERS is a multiple-employer public employee defined benefit pension plan, and

WHEREAS, the market value of investments in the City’s pension plans is less than the present value of the City’s liability for benefits already earned, and thus the City has an Unfunded Accrued Liability (“UAL”), and

WHEREAS, it is the policy of the City of Modesto to use strategies to reduce the cost of the UAL and demonstrate financial stability, and

WHEREAS, the City shall strive to contribute more than required by CalPERS by applying Additional Discretionary Payments (“ADP”) to reduce the UAL and accrual of interest thereon; and contribute to the City’s irrevocable Internal Revenue Code Section 115 Trust.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby adopts the Council Unfunded Pension Liability Policy.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 7th day of June, 2022, by Councilmember Wright, who moved its adoption, which motion being duly seconded by Councilmember Escutia-Braaton, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Escutia-Braaton, Kenoyer, Madrigal, Ricci, Wright, Mayor Zwahlen

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST:   
DIANE NAYARES-PEREZ, CMC,  
City Clerk

(SEAL)

APPROVED AS TO FORM:

BY:   
JOSE M. SANCHEZ, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2022-266**

**RESOLUTION APPROVING A PROPOSED AGREEMENT INCLUDING LANGUAGE CHANGES FOR A SUCCESSOR MEMORANDUM OF UNDERSTANDING (MOU) BETWEEN THE CITY OF MODESTO AND MODESTO CITY FIRE FIGHTERS ASSOCIATION (MCFFA) FOR A TERM OF JULY 1, 2022 TO JUNE 30, 2024, AUTHORIZING THE CITY MANAGER TO PREPARE AND EXECUTE THE SUCCESSOR MOU AND AUTHORIZING THE CITY MANAGER OR HIS DESIGNEE TO TAKE THE NECESSARY ADMINISTRATIVE ACTION TO IMPLEMENT THE AGREEMENT**

WHEREAS, the current Memorandum of Understanding (MOU) between the City of Modesto (CITY) and the Modesto City Fire Fighters Association (MCFFA) expires on June 30, 2022, and

WHEREAS, representatives of the CITY and the MCFFA have met and conferred in good faith concerning wages, hours, terms and conditions of employment for employees in said bargaining unit, and

WHEREAS, the CITY and MCFFA have reached agreement on language changes for a successor MOU which shall be **attached** hereto and made a part hereof as **Exhibit “A”**, and

WHEREAS, the MOU provides as follows:

ARTICLE 2. TERM. The term of the MOU shall be from July 1, 2022 to June 30, 2024.

ARTICLE 4. SALARY.

- a. Effective June 20, 2022, each salary range shall consist of six (6) steps, A through F. Progression through the steps shall be based upon both length of service and job performance.

- b. Effective June 20, 2022, employees who have been in Step E for 26 pay periods or more shall be placed into Step F.

ARTICLE 11. EDUCATIONAL INCENTIVE PAY. Changes shown in **attached Exhibit “A”** to be effective June 22, 2022.

NEW ARTICLE. CERTIFICATE INCENTIVE PAY. Changes shown in **attached Exhibit “A”** to be effective June 22, 2022.

ARTICLE 13. LONGEVITY INCENTIVE PAY. Changes shown in **attached Exhibit “A”** to be effective June 22, 2022.

ARTICLE 12. OVERTIME, COMPENSATORY TIME, HIRE-BACK, CALL-BACK. New subsection (h) If requested by an employee, overtime for shift employees may be recorded as compensatory time off (CTO). CTO will be credited at one and one-half (1½) times the amount of hours worked. Each employee shall be paid, as part of the last paycheck received in September, December, March and June for all compensatory time over one hundred forty-four (144) hours. Employees may request payment of compensatory time to be included in any other regular paycheck so long as the request is for at least twenty (20) hours and sufficient notice, as determined by the Finance Director, is provided. Employees will be granted, subject to the availability of a vacation or holiday board, and with the consent of the Fire Chief or designee, compensatory time off. Prior to the employee’s reassignment from a 56-hour shift schedule to a 40-hour non-shift schedule, all compensatory time off shall be paid to the employee at the employee’s then current rate of pay. CTO earned in a fiscal year must be used or cashed out by the last paycheck received in June; no CTO balance will be carried over into the new fiscal year. If an employee has a remaining CTO balance after the last paycheck in

June, it will be cashed out in the next pay period at the employee's then current rate of pay.

ARTICLE 20. CAFETERIA PLAN. Effective the pay period that includes the PERs rate changes for calendar year, 2023 and 2024 the City shall increase the monthly rate increase to medical, dental and vision insurance premiums as described below.

	2023	2024
Employee only	\$873	\$907
Employee plus 1	\$1,303	\$1,355
Employee plus family	\$1,640	\$1,706

NEW ARTICLE 49. FIRE HOSE TESTING.

Effective July 1, 2022 the City shall begin the process of hiring an outside company to conduct fire hose test of all of the Departments fire hoses.

CHANGES AND REMAINING PROVISIONS. Other changes and remaining provisions of the July 1, 2018 through June 30, 2021 MOU and Letters of Agreements through June 30, 2022 between the CITY and MCFFA shall continue in the new MOU. The exact language of all provisions shall be set forth in the MOU between the CITY and MCFFA.

WHEREAS, the Council considered this matter at its meeting of May 10, 2022.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Council hereby approves the language changes for a successor Memorandum of Understanding between the City of Modesto and the Modesto City Fire Fighters Association, which covers a term from July 1, 2022 through June 30, 2024.

BE IT FURTHER RESOLVED by the Council of the City of Modesto that the Council hereby authorizes the City Manager to prepare and execute the successor Memorandum of Understanding between the City of Modesto and the Modesto City Fire Fighters Association, consistent with the approved language changes under this Resolution, in a form approved by the City Attorney. 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 7th day of June, 2022, by Councilmember Ricci, who moved its adoption, which motion being duly seconded by Councilmember Escutia-Braaton, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Escutia-Braaton, Kenoyer, Madrigal, Ricci, Wright, Mayor Zwahlen


NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST:   
DIANE NAYARIS-PEREZ, CMC,  
City Clerk

(SEAL)

APPROVED AS TO FORM:

BY:   
JOSE M. SANCHEZ, City Attorney

**Tentative Agreement Between**

**City of Modesto**

**and**

**Modesto City Fire Fighters Association (MCFFA)**

**May 18, 2022**

The City of Modesto, hereby referred to as "City," and the Modesto City Fire Fighters Association, hereby referred to as "MCFFA" agree to this Tentative Agreement (TA) regarding language for the successor Memorandum of Understanding (MOU) by and between the City and the MCFFA. All other provisions of the MOU shall remain in effect. This tentative agreement is contingent upon ratification by the unit and approval by the City Council.

**Article 2. TERM OF MEMORANDUM**

- a) The term of this Memorandum of Understanding shall be the period of July 1, 2022~~18~~ through June 30, 2024~~1~~, inclusive.
- b) The CITY and MCFFA agree to begin subsequent negotiations no later than January 15, 2024~~1~~.

**Article 4. SALARY RATES AND STEP ADVANCES**

- a) The parties jointly agree that the following base salary ranges and rates shall be applicable on the dates indicated for classifications in this Unit for the period commencing July 1, 2022~~18~~ and ending June 30, 2024~~14~~.

Classification Title	Ranges Effective 7/1/22 <del>18</del>	
	56 Hour	40 Hour
Firefighter Trainee	205	905
Firefighter	209	709
Fire Engineer	213	713
Fire Captain	219	719

- b) For purposes of this Agreement, base salary range shall mean the salary range assigned to a specific classification as provided in Section (a) of this Article. Base salary rate shall mean the hourly rate of pay established pursuant to the step placement within the base salary range as provided in this Agreement. Salary ranges shall be those provided in Exhibits A-1 through C-3 (Schedule of Salary Ranges) of

<sup>1</sup> Range numbers may need to be updated based on current schedules.

this Agreement. Paid time shall be based upon the regular rate of pay with the computation rounded to the nearest cent.

- c) Effective ~~June 22, 2021~~April 16, 2019, the salary ranges shall be adjusted upward by ~~three-two and one-half~~ percent (~~2.53.0~~%) as provided in Exhibits A-1 through A-3 of this Agreement. Effective June ~~215, 2022~~15, 2021, the salary ranges shall be further adjusted upward by an additional ~~three-two and one-half~~ percent (~~2.53.0~~%) as provided in Exhibits B-1 through B-3 of this Agreement. ~~Effective June 23, 2020, said ranges will be further adjusted upward an additional three percent (3.0%) as provided in Exhibits C-1 through C-3 of this Agreement.~~

Effective ~~the first full pay period following adoption by the City Council~~April 16, 2019, each employee shall contribute one (1.0%) of salary to an agreed upon Base as noted in the CalPERS Safety Schedule of Amortization Bases.

Effective July 21, 2020, each employee shall contribute an additional three percent (3.0%) for a total of four percent (4.0%) to an agreed upon base as noted in the CalPERS Safety Schedule of Amortization Bases, with the exception that from July 21, 2020 through June 7, 2021, the four percent (4%) contribution shall be used to fund a portion of the Employer Share of the normal cost versus being contributed to an agreed upon base on the CalPERS Safety Schedule of Amortization and effective June 8, 2021 the four (4%) contribution shall resume as contributions to an agreed upon base as noted in the CalPERS Safety Schedule of Amortization Bases as Additional Direct Payments to the CalPERS Unfunded Accrued Liability (UAL) and shall continue to until such liability is paid in full.

Effective June 21, 2022, each employee shall contribute an additional two and one-half percent (2.5%) for a total of six and one-half (6.5%) of salary as contributions to an agreed upon base as noted in the CalPERS Safety Schedule of Amortization Bases as Additional Direct Payments to the CalPERS Unfunded Accrue Liability (UAL) and shall continue until such liability is paid in full. To the extent possible, the City shall insure that any contributions to the Base Account as referenced herein shall be directed to those costs arising specifically related to Fire employees.

In contributing to their statutorily required retirement contributions, PEPRAs employees shall not exceed the agreed upon additional contribution levels noted above for each year listed; sixteen percent (16%) for June 2021 and eighteen and one-half percent (18.5%) for June 2022. Should the PEPRAs contribution exceed the percentages noted above, PEPRAs employees shall have their additional contributions to the City's Base account adjusted downward accordingly. The cap of eighteen and one-half percent (18.5%) shall remain in effect for the duration of this successor Memorandum of Understanding.

- d) When an employee is promoted, the calculation for the salary increase shall be based on the employee's base salary, excluding any Relief pay, incentive pay or acting pay.

- e) Each salary range shall consist of five (5) steps, A through E. Progression through the steps shall be based upon both length of service and job performance.

Effective July 1, 2023, each salary range shall consist of six (6) steps, A through F. Progression through the steps shall be based upon both length of service and job performance. Effective July 1, 2023, employees who have been in Step E for 26 pay periods or more shall be placed into Step F.

- 1) Step A will normally be paid upon initial employment. The initial salary may be set at a higher step only upon approval of the department head and/or City Manager. In cases of exceptional performance, employees hired at higher than Step A, may be considered for their first step increase after thirteen (13) pay periods.
- 2) Step B shall be paid upon completion of 13 pay periods with an overall "Meets Expectations" performance evaluation.
- 3) Steps C ~~and through ED~~ shall be paid upon completion of 26 pay periods with an overall "Meets Expectations" performance evaluation.
- 4) Step ~~FE~~ shall be paid upon completion of 26 pay periods with an overall "Meets Expectations" evaluation and a current certification as an EMT or Paramedic. Failure to maintain such certification shall result in automatic reduction to Step ~~ED~~.
- 5) Merit step increases within the established salary range, may be granted in addition to those above, upon approval of the City Manager.
- 6) When a step increase is denied, there shall be another performance evaluation of the employee within thirteen (13) pay periods from the effective date of the denied increase. There is no right of appeal to the withholding of a step increase, but the reasons for withholding shall be given in writing to the employee.
- 7) Due to performance deficiency, lack of application, indifferent attitude, or other legitimate reasons, an employee's step may be reduced to a lower step upon recommendation of the department head and approval of the City Manager. There is no right of appeal due to the lowering of steps, but the reasons for such shall be given in writing to the employee.

#### **Article 11. EDUCATIONAL INCENTIVE PAY**

Employees who hold degrees identified below shall be eligible for education incentive pay.

a) Effective July 1, 20~~22~~<sup>21</sup>~~18~~, employees shall receive up to a maximum of five percent (5.0%) compensation for the highest college degree obtained and listed below. ~~be eligible for Educational Incentive Pay for designated certifications or degrees, as follows:~~

- ~~1) Fire Science/Fire Officer 1%~~
- ~~2)1) AA/AS 2.5%~~
- ~~3)2) BA/BS 3.55.0%~~

b) Qualifying ~~certificates and~~ degrees:

~~1) Fire Science or Fire Technology certificate from a community college accredited by the Western Association of Schools and Colleges OR completion of Fire Officer Certification from the Office of the California State Fire Marshal.~~

~~2)1) Associates Degree in Fire Science, Fire Technology, or a related field, OR a Bachelor's Degree in Fire Science, Fire Management, Public Safety Administration or a related field. Fire Chief reserves the right to determine qualifying degrees.~~

Educational incentives are not stackable or cumulative. Employees receive pay for the highest ~~certification or~~ degree earned. Employee is responsible for submitting request for educational incentive. Educational incentive will be effective in the same pay period that verification of education is received by the City from the employee.

## Article 12. CERTIFICATE INCENTIVE PAY

Employees who hold certificates identified below shall be eligible for certification incentive pay. Employee is responsible for submitting request for certificate incentive. Certificate incentive will be effective in the same pay period that verification of certificate is received by the City from the employee.

a) Effective July 1, 2022, employees shall receive one half percent (0.5%) for each qualifying certificate listed below, for up to a maximum of two and one half percent (2.5%) certification incentive pay.

b) Qualifying certificates:

1) Certificates below held from the Office of the California State Fire Marshal or the equivalent California Joint Apprentice Committee Program shall be eligible for compensation:

- Fire Investigator – 1A, 1B, 1C
- Fire Inspector (or Prevention) – 1A, 1B, 1C, 1D
- Fire Instructor – 1A, 1B, or I, II, III

Fire Command – 1A, 1B, 1C  
Fire Management 1  
Plans Examiner (or Checker) – 1A, 1B, 1C  
Fire & Life Safety Educator – 1A, 1B, 1C  
Fire Science or Fire Technology Certificate  
Rescue Tech 2  
Rope Rescue Technician  
Boat Operator  
Wildland Firefighter – Equivalent courses in series.  
Fire Apparatus Driver/Operator or Engineer or Equivalent (Equivalent to completion of 1A and 1B)  
Driver Operator 1A  
Driver Operator 1B  
Fire Control 5 (ARFF – Aircraft Rescue and Fire Fighting)  
Company Officer – 2A, 2B, 2C, 2D, 2E  
Fire Marshal – 1A, 1B, 1C, 1D, 1E  
Chief Officer – 3A, 3B, 3C, 3D

**Article 123. LONGEVITY INCENTIVE PAY**

- a) Effective July 1, 20~~22~~<sup>21</sup>18, employees shall be eligible for Longevity Incentive Pay for the following years of service
- 1) 10 years of service ~~2.01~~<sup>2.0</sup>5%
  - 2) 15 years of service ~~3.5~~<sup>3.0</sup>%
  - 3) 20 years of service ~~5.0~~<sup>4.0</sup>%

Longevity incentives are not stackable or cumulative. Employees receive pay for the highest years of service for which they qualify.

**Article 165. OVERTIME, COMPENSATORY TIME, HIRE-BACK, CALL-BACK**

- a) The work period for fire suppression employees working shifts shall be twenty-four (24) days. The first day of the work period for Platoon A shall be April 22, 1985; for Platoon B shall be April 19, 1985; and, for Platoon C shall be April 16, 1985 all at 0700 hours. The fifty-six hour weekly work schedule provides for 192 hours of work within the twenty-four (24) day work period. Therefore, the average non-overtime workweek shall be fifty-three (53) hours. The three (3) hours of regularly scheduled overtime in each week, to equal the fifty-six (56) hour workweek schedule, are only paid at overtime rates if the employee works more than 182 scheduled hours in the twenty-four (24) day work period. “4850 time” shall be treated as time worked for purposes of computing overtime.
- b) The work period for non-shift employees (“40 hour” employees) shall be fourteen (14) days and shall coincide with the City’s standard pay period cycle. The work period shall commence at 12:01 a.m. Tuesday and conclude at 12:00 a.m. (midnight)

two weeks thereafter. The average non-overtime work week shall be forty (40) hours. The Fire Chief may authorize alternate work schedules for non-shift employees, not to exceed eighty (80) non-overtime hours in the fourteen (14) day work period.

- c) Employees shall not work overtime without the express direction of their supervisor and approval of the Fire Chief or designee.
- d) All overtime worked must be reported by the employee to the supervisor the day or shift following the day or shift the overtime was worked.
- e) Overtime shall be compensated at time and one-half of the employee's regular rate of pay for each minute worked. For shift employees, overtime pay rates shall be for all time worked over one hundred eighty-two (182) hours in a twenty-four (24) day work period. For non-shift employees, overtime pay rates shall be paid for all time scheduled and worked over eighty (80) hours in the fourteen (14) day work period. Paid leave time shall be considered as time actually worked for purposes of computing overtime, except that the three (3) hours of regularly scheduled overtime in each week must be actually worked to be paid at overtime rates as required by Article 14(a) above.
- f) The Opt Out allowance paid pursuant to the Cafeteria Plan shall be treated as a lump sum payment to an hourly rate employee for the purposes of overtime compensation pursuant to the method of 29 C.F.R. 778.110(b). Unlike the Opt Out allowance, all other remunerations not subject to exclusion pursuant to 29 U.S.C. 207(e) shall be treated as they have been, and shall be included in the regular rate and paid at one and one half times the regular rate for overtime hours.

~~g)~~ g) ——— If requested by the employee, overtime for non-shift employees may be recorded as compensatory time off (CTO). CTO will be credited at one and one-half (1½) times the amount of hours worked. Each employee shall be paid, as part of the last paycheck received in September, December, March and June for all compensatory time over one hundred forty-four (144) hours. Employees may request payment of compensatory time to be included in any other regular paycheck so long as the request is for at least twenty (20) hours and sufficient notice, as determined by the Finance Director, is provided. Employees may also request and with the consent of the Fire Chief or designee be granted compensatory time off. Prior to the employee's reassignment from a 40-hour non-shift schedule to a 56-hour shift schedule, all compensatory time off shall be paid to the employee at the employee's then current rate of pay.

h) If requested by an employee, overtime for shift employees may be recorded as compensatory time off (CTO). CTO will be credited at one and one-half (1½) times the amount of hours worked. Each employee shall be paid, as part of the last paycheck received in September, December, March and June for all compensatory time over one hundred forty-four (144) hours. Employees may request payment of

compensatory time to be included in any other regular paycheck so long as the request is for at least twenty (20) hours and sufficient notice, as determined by the Finance Director, is provided. Employees will be granted, subject to the availability of a vacation or holiday board, and with the consent of the Fire Chief or designee, compensatory time off. Prior to the employee's reassignment from a 56-hour shift schedule to a 40-hour non-shift schedule, all compensatory time off shall be paid to the employee at the employee's then current rate of pay. CTO earned in a fiscal year must be used or cashed out by the last paycheck received in June; no CTO balance will be carried over into the new fiscal year. If an employee has a remaining CTO balance after the last paycheck in June, it will be cashed out in the next pay period at the employee's then current rate of pay.

- h) Shift employees who are on duty at the time of a call for service, and who are required to continue on the call beyond the end of their regular shift, shall be paid overtime for time beyond the end of shift. Such overtime shall be paid at the end of the pay period in which the duty was performed.
- i) Employees who are "hired-back" to meet the manpower requirements of the Minimum Staffing Policy shall be paid overtime for all such duty. Travel time will be paid only from duty station to duty station. Anyone responding to work from any other location will be paid from the time of arrival at the assigned duty station. Such overtime shall be paid at the end of the pay period in which the duty was performed.
- j) Employees who are "called-back" to work on an emergency basis (including Fire Investigations and emergency support activities) shall be paid a minimum of four (4) hours of overtime. "Emergency Basis" also includes staffing needs as a result of extended automatic or mutual aid.
- k) When a 40-hour non-shift employee works overtime in a shift capacity, the hourly rate of pay used to calculate overtime compensation arising out of the hours worked on shift, shall be derived from the 112 hour Salary Schedule and shall exclude any special assignment pay attributable to the employee's 40-hour special assignment.
- l) FLSA overtime shall be calculated at the conclusion of each work period and shall be paid with the payroll check received no later than the next full pay period.
- m) Personnel working a 56-hour work schedule who represent MCFFA during contract negotiations with the CITY of Modesto will be relieved from their regular shift for 12 hours when they attend negotiation sessions.
- n) Fire Department employees are required to receive an annual physical. This physical shall be paid for by the CITY, when performed by the CITY contract physician. Employees obtaining their annual physical from their private physician shall incur all costs. The CITY shall pay the employee three (3) hours of overtime pay to obtain all phases of this physical. Those employees required to obtain a HazMat physical shall be paid four (4) hours of overtime.

- o) All other administrative policies and procedures regarding overtime shall be as contained in the Personnel Rules and Personnel Administrative Orders and the Minimum Staffing Policy.

**Article 224. CAFETERIA PLAN**

- a) All employees in regular positions budgeted for forty (40) hours or more per pay period shall be eligible to participate in the Cafeteria Plan described in this Article. Each such employee may select among the following options and specify what portion of the amount designated below will be applied. The cafeteria allowance amounts listed in (b) (1) below, include the required minimum health contribution, as set forth by Government Code Section 22825.
- b) Eligible employees shall be entitled to the following monthly allowances:

1) Total Allowance (monthly) – Health & Cafeteria Plan

	202219	20230*	20241*
Employee Only	\$839776	\$873794	\$8907
Employee + 1	\$1,253158	\$1,303184	\$1,355205
Family	\$1,577459	\$1,640488	\$1,706546
Opt Out	\$55025	\$55025	\$55025

*\*The rates in 20230 and 2024 and 2024 shall take effect in the pay period that includes PERS rate changes for the applicable calendar year. ~~The City contribution for 2019 shall take effect the first full pay period following City Council approval of this agreement.~~*

- 2) The City's contribution and the employee deduction (if any) shall be processed for payment two (2) pay periods in advance of the dates listed above.
- 3) The Opt Out allowance applies to employees who waive health, dental and vision coverage, or who waive health but continue to carry dental and vision coverage.
- c) The Cafeteria Plan shall include the following options:
  - 1) Health, Dental and Vision Insurance. This option provides a monthly allowance toward the combined total premium for the health, dental and vision insurance program provided by the CITY not to exceed the stated monthly maximum benefit of the Cafeteria Plan. All employees shall select this option at least to the level

that provides for health, vision and dental coverage for the individual employee, provided that employees may request a waiver of the health coverage from the Human Resources Department. Such waiver shall only be granted if the employee shows proof of other health insurance coverage. Effective August 1, 2002, an employee who has waived health coverage may also elect to waive dental and vision coverage, provided that the employee shows proof of other dental coverage. Dental and vision coverage may only be waived together, and may not be separately waived. Should an employee who has obtained a waiver to this provision lose such alternative coverage, the employee shall notify the Human Resources Department within five (5) work days and enroll in a CITY provided insurance program. The election to waive coverage may only be exercised during the City's open enrollment period or in coordination with spouse/registered domestic partner's open enrollment period, or within thirty (30) days of a qualifying life change event.

2) Additional Insurance Programs. This option provides a monthly allowance toward payment of premiums for additional insurance programs sponsored by MCFFA or the CITY.

3) Cash. That portion of the allowance not utilized for option (1) or (2) above shall be paid to the employee as cash. Such cash shall be subject to all applicable provisions of the tax code.

d) The CITY shall continue an IRS section 125 program for pre-tax deductions for the employee share of health, dental and vision insurance premiums for dependent care costs, and for unreimbursed medical expenses.

**Article 49. FIRE HOSE TESTING**

Effective July 1, 2022 the City shall begin the process of hiring an outside company to conduct fire hose test of all of the Departments fire hoses.


This tentative agreement shall become effective upon ratification by the affected membership of the MCFFA and adoption by the Modesto City Council.

**CITY OF MODESTO**


**MODESTO CITY FIRE FIGHTERS ASSOCIATION**

  
 \_\_\_\_\_  
 Jesse Lad  
 Co-Lead Negotiator


5/19/22  
 \_\_\_\_\_  
 Date

  
 \_\_\_\_\_  
 Sterling Butts  
 Lead Negotiator

5/19/22  
 \_\_\_\_\_  
 Date

  
 \_\_\_\_\_  
 Christina Alger  
 Director of Human Resources

5/19/22  
 \_\_\_\_\_  
 Date

  
 \_\_\_\_\_  
 Dan Koontz  
 Representative

5/18/22  
 \_\_\_\_\_  
 Date

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2022-267**

**RESOLUTION GRANTING SALARY CHANGES TO UNREPRESENTED SWORN FIRE MANAGEMENT EMPLOYEES, EFFECTIVE JULY 22, 2022 AND NON-SWORN UNREPRESENTED MANAGEMENT AND CONFIDENTIAL EMPLOYEES INCLUDING CHARTER OFFICERS AND EXECUTIVES, EFFECTIVE NOVEMBER 26, 2019; RESCINDING RESOLUTION NO. 2020-310, AND AUTHORIZING THE CITY MANAGER OR HIS DESIGNEE TO TAKE THE NECESSARY ADMINISTRATIVE ACTION TO IMPLEMENT THE CHANGES**

WHEREAS, on July 14, 2020, by Resolution No. 2020-310, Council amended the salary schedules for Unrepresented Sworn Fire Management, and

WHEREAS, the Council of the City of Modesto adopted a successor Memorandum of Understanding (MOU) with Modesto City Fire Fighters Association (MCFFA) on June 7, 2022 which included adding a step to the existing salary schedule, and

WHEREAS, the City shall provide for wage increases for Unrepresented Sworn Fire Management employees as follows:

- a. Effective June 20, 2023 the salary schedule will be modified from a number step schedule to a letter step schedule to bring it consistent with all other employee group salary schedules.
- b. Effective June 20, 2023, the salary range shall consist of six steps, “A through F”. Progression through the steps shall be based upon both length of service and job performance, and

WHEREAS, on November 26, 2019 the City approved a two percent (2.0%) base salary increase for all unrepresented Management and Confidential employees, including Charter Officers and Executives, effective November 26, 2019; followed by an additional two percent (2.0%) base salary increase for all unrepresented Management and

Confidential employees, including Charter Officers and Executives, effective June 23, 2020 and an additional two (2.0%) base salary increase for all unrepresented Management and Confidential employees, including Charter Officers and Executives, effective June 22, 2021, and an additional two (2.0%) base salary increase for all unrepresented Management and Confidential employees, including Charter Officers and Executives, employees effective June 21, 2022, and

WHEREAS, the City desires to maintain competitive position with the labor market.

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

1. SALARY RANGES, RATES AND EFFECTIVE DATES.

The salary rates, salary ranges and salary steps as set forth in the following exhibits which is attached hereto and made a part hereof provide for a six step schedule, effective June 20, 2023, for unrepresented sworn Fire Management employees.

As previously approved, the remaining exhibits which are attached hereto and made a part hereof provide for a two and one-half (2.5) percent across the board salary adjustment for unrepresented Fire Management effective June 22, 2021, and an additional two and half percent (2.5) across the board salary adjustment for unrepresented sworn Fire Management effective June 21, 2022, the remaining exhibits made a part hereof provide for a two (2.0%) percent across-the-board salary adjustment for unrepresented Management and Confidential employees, including Charter Officers and Executives, effective November 26, 2019; salary ranges increased by two (2.0%) percent effective June 23, 2020 for unrepresented Management and Confidential employees, including Charter Officers and Executives; an

additional two (2.0%) percent increase effective June 22, 2021 for unrepresented Management and Confidential employees, including Charter Officers and Executives; and an additional two (2.0%) percent base salary increase for all unrepresented Management and Confidential employees, including Charter Officers and Executives, effective June 21, 2022. In addition, based on the results of the City's most recent labor market study, the salary range for each of the benchmark classes listed in Exhibit X, along with any related classes, shall increase in accordance with the schedule and is set forth in these Exhibits.

1. **Exhibit "1"** entitled "City of Modesto Class Range Table, Unrepresented Management and Confidential Non-Sworn Classes, Effective November 26, 2019."
2. **Exhibit "2"** entitled "City of Modesto Class Range Table, Unrepresented Management and Confidential Non-Sworn Classes, Effective June 23, 2020."
3. **Exhibit "3"** entitled "City of Modesto Class Range Table, Unrepresented Management and Confidential Non-Sworn Classes, Effective June 22, 2021."
4. **Exhibit "4"** entitled "City of Modesto Schedule Of Salary Ranges in City Service for FY 19/20, Effective November 26, 2019 Management/Confidential – Non-Sworn Unrepresented."
5. **Exhibit "5"** entitled "City of Modesto Schedule Of Salary Ranges in City Service for FY 20/21, Effective June 23, 2020 Management/Confidential – Non-Sworn Unrepresented."
6. **Exhibit "6"** entitled "City of Modesto Schedule Of Salary Ranges in City Service for FY 21/22, Effective June 22, 2021 Management/Confidential – Non-Sworn Unrepresented."
7. **Exhibit "7"** entitled "City of Modesto Schedule Of Salary Ranges in City Service for FY 21/22, Effective June 21, 2022 Management/Confidential – Non-Sworn Unrepresented."
8. **Exhibit "8"** entitled "City of Modesto Class Range Table, Executive Management, Effective November 26, 2019" which includes Charter Officers.

9. **Exhibit "9"** entitled "City of Modesto Class Range Table, Executive Management, Effective June 23, 2020" which includes Charter Officers.
10. **Exhibit "10"** entitled "City of Modesto Class Range Table, Executive Management, Effective June 22, 2021" which includes Charter Officers.
11. **Exhibit "11"** entitled "City of Modesto Schedule Of Salary Ranges in City Service for FY 19/20, Effective November 26, 2019 - Executive Management."
12. **Exhibit "12"** entitled "City of Modesto Schedule Of Salary Ranges in City Service for FY 20/21, Effective June 23,2020 - Executive Management."
13. **Exhibit "13"** entitled "City of Modesto Schedule Of Salary Ranges in City Service for FY 21/22, Effective June 22, 2021 – Executive Management."
14. **Exhibit "14"** entitled "City of Modesto Schedule Of Salary Ranges in City Service for FY 22/23, Effective June 21, 2022 – Executive Management."
15. **Exhibit "15"** entitled "City of Modesto Schedule Of Salary Ranges in City Service for FY 22/23, Effective June 21, 2022 – Schedule X, Fire Management – 80 Hrs. – Battalion Chief and Schedule Y, Fire Management – 112 Hrs. – Battalion Chief.
16. **Exhibit "16"** entitled "City of Modesto Schedule Of Salary Ranges in City Service, Unrepresented Battalion Chiefs, Effective June 20, 2023 – 80 Hour and 112 Hour.
17. **Exhibit "17"** entitled "City of Modesto Schedule Of Salary Ranges in City Service, Effective June 21, 2022 – Unrepresented Fire Deputy Chiefs – 80 hours ."
18. **Exhibit "18"** entitled "City of Modesto Schedule Of Salary Ranges in City Service, Unrepresented Fire Deputy Chiefs, Effective June 20, 2023
19. **Exhibit "19"** City of Modesto Schedule of Salary Ranges in City Service for FY 22/23, Effective June 21, 2022 – Unrepresented - Fire Chief

20. **Exhibit “20”** City of Modesto Schedule of Salary Ranges in City Service, Unrepresented Fire Chief, Effective June 20, 2023
21. **Exhibit “21”** entitled “City of Modesto Class Range Table, Fire Management Classes, Effective September 7, 2021.
22. **Exhibit “22”** entitled “City of Modesto Class Range Table, Sworn Fire Executive Management Classes, Effective July 12, 2016.
23. **Exhibit “23”** entitled “City of Modesto Class Range Table, Police Management Classes (Unrepresented), Effective June 26, 2018.
24. **Exhibit “24”** City of Modesto Schedule of Salary Ranges in City Service for FY 20/21, Effective June 23, 2020 – Unrepresented Police Captains.
25. **Exhibit “25”** City of Modesto Schedule of Salary Ranges in City Service for FY 21/22, Effective June 22, 2021 – Unrepresented Police Captains.
26. **Exhibit “26”** City of Modesto Schedule of Salary Ranges in City Service for FY 22/23, Effective June 21, 2022 – Unrepresented Police Captains.
27. **Exhibit “27”** City of Modesto Schedule of Salary Ranges in City Service for FY 20/21, Effective June 23, 2020 – Management/Confidential Police Chief – Unrepresented.
28. **Exhibit “28”** City of Modesto Schedule of Salary Ranges in City Service for FY 21/22, Effective June 22, 2021 – Management/Confidential Police Chief – Unrepresented.
29. **Exhibit “29”** City of Modesto Schedule of Salary Ranges in City Service for FY 22/23, Effective June 21, 2022 – Management/Confidential Police Chief – Unrepresented.
30. **Exhibit “30”** entitled “City of Modesto Class Range Table, Sworn Police Executive Management Classes, Effective June 27, 2017

2. CHARTER OFFICERS.

The salaries for the positions of the Charter Officers shall be as follows effective November 26, 2019:

<u>TITLE</u>	<u>HOURLY</u>	<u>BI-WEEKLY</u>	<u>MONTHLY</u>
City Manager	115.10	9,208.00	20,018.19
City Attorney	96.83	7,746.40	16,840.67
City Auditor	65.23	5,218.40	11,344.80
City Clerk	66.86	5,348.80	11,628.29

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.

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.

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.

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.

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.

BE IT FURTHER RESOLVED by the Council of the City of Modesto that Resolution No. 2020-310 is hereby rescinded effective June 7, 2022.

BE IT FURTHER RESOLVED by the Council of the City of Modesto that the Council hereby authorizes the City Manager, or his designee, to take the necessary administrative actions to implement the changes under 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 June, 2022, by Councilmember Ricci, who moved its adoption, which motion being duly seconded by Councilmember Escutia-Braaton, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Escutia-Braaton, Kenoyer, Madrigal, Ricci, Wright, Mayor Zwahlen

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST:   
DIANE NAYARES-PÉREZ, CMC,  
City Clerk

(SEAL)

APPROVED AS TO FORM:

BY:   
JOSE M. SANCHEZ, City Attorney

CITY OF MODESTO  
CLASS RANGE TABLE  
UNREPRESENTED MANAGEMENT AND CONFIDENTIAL NON-SWORN CLASSES  
Effective **November 26, 2019**

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RANGE      TITLE

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**2422 Executive Assistant**

**2426 Office Supervisor - Personnel**

**2427 Executive Assistant to the City Council  
Executive Assistant to the City Manager  
Paralegal**

2428 Legal Services Administrator

2431 Equal Opportunity Analyst/Paralegal

2434 Senior Auditor

2439 Employee Benefits Manager

**2440 Employee Relations Coordinator**

2444 Deputy City Attorney I

**2445 Risk Manager**

**2446 Human Resources Manager**

2448 Deputy City Attorney II

**2451 Budget Manager**

2452 Deputy City Attorney III  
Deputy Director of Community and Economic Development  
Deputy Director of Cultural and Enterprise Services  
Deputy Director of Finance  
Deputy Director of Human Resources  
Deputy Director of Public Works – Operations  
Deputy Director of Recreation and Neighborhoods

2455 Deputy Director of Utility Planning and Projects

2456 Senior Deputy City Attorney

2462 Assistant City Attorney

CITY OF MODESTO  
CLASS RANGE TABLE  
UNREPRESENTED MANAGEMENT AND CONFIDENTIAL NON-SWORN CLASSES  
Effective **June 23, 2020**

---

RANGE      TITLE

---

**2423 Executive Assistant**

**2427 Office Supervisor - Personnel**

**2428 Executive Assistant to the City Council  
Executive Assistant to the City Manager  
Legal Services Administrator  
Paralegal**

2431 Equal Opportunity Analyst/Paralegal

2434 Senior Auditor

2439 Employee Benefits Manager

**2441 Employee Relations Coordinator**

2444 Deputy City Attorney I

**2447 Human Resources Manager  
Risk Manager**

2448 Deputy City Attorney II

2451 Budget Manager

2452 Deputy City Attorney III  
Deputy Director of Community and Economic Development  
Deputy Director of Cultural and Enterprise Services  
Deputy Director of Finance  
Deputy Director of Human Resources  
Deputy Director of Public Works – Operations  
Deputy Director of Recreation and Neighborhoods

2455 Deputy Director of Utility Planning and Projects

2456 Senior Deputy City Attorney

2462 Assistant City Attorney

CITY OF MODESTO  
 CLASS RANGE TABLE  
 UNREPRESENTED MANAGEMENT AND CONFIDENTIAL NON-SWORN CLASSES  
 Effective **June 22, 2021**

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RANGE	TITLE
2423	Executive Assistant
2427	Office Supervisor - Personnel
2428	Legal Services Administrator
<b>2429</b>	<b>Executive Assistant to the City Council Executive Assistant to the City Manager Paralegal</b>
2431	Equal Opportunity Analyst/Paralegal
2434	Senior Auditor
2439	Employee Benefits Manager
<b>2442</b>	<b>Employee Relations Coordinator</b>
2444	Deputy City Attorney I
<b>2448</b>	<b>Human Resources Manager Risk Manager</b>
2448	Deputy City Attorney II
2451	Budget Manager
2452	Deputy City Attorney III Deputy Director of Community and Economic Development Deputy Director of Cultural and Enterprise Services Deputy Director of Finance Deputy Director of Human Resources Deputy Director of Public Works – Operations Deputy Director of Recreation and Neighborhoods
2455	Deputy Director of Utility Planning and Projects
2456	Senior Deputy City Attorney
2462	Assistant City Attorney

CITY OF MODESTO  
 SCHEDULE OF SALARY RANGES IN CITY SERVICE FOR FY 19/20  
 EFFECTIVE: NOVEMBER 26 2019

UNREPRESENTED MANAGEMENT/CONFIDENTIAL

	HOURLY					BI-WEEKLY					MONTHLY				
	A	B	C	D	E	A	B	C	D	E	A	B	C	D	E
2419	23.79	24.98	26.23	27.54	28.92	1,903.20	1,998.40	2,098.40	2,203.20	2,313.60	4,137.56	4,344.52	4,561.92	4,789.76	5,029.77
2420	24.39	25.61	26.89	28.23	29.64	1,951.20	2,048.80	2,151.20	2,258.40	2,371.20	4,241.91	4,454.09	4,678.71	4,909.76	5,154.99
2421	25.00	26.25	27.56	28.94	30.39	2,000.00	2,100.00	2,204.80	2,315.20	2,431.20	4,348.00	4,565.40	4,793.24	5,033.24	5,285.43
2422	25.62	26.91	28.25	29.66	31.15	2,049.60	2,152.80	2,260.00	2,372.80	2,492.00	4,455.83	4,680.19	4,913.24	5,158.47	5,417.61
2423	26.26	27.58	28.96	30.40	31.92	2,100.80	2,206.40	2,316.80	2,432.00	2,553.60	4,567.14	4,796.71	5,036.72	5,287.17	5,551.53
2424	26.92	28.27	29.68	31.16	32.72	2,153.60	2,261.60	2,374.40	2,492.80	2,617.60	4,681.93	4,916.72	5,161.95	5,419.36	5,690.66
2425	27.59	28.97	30.42	31.94	33.54	2,207.20	2,317.60	2,433.60	2,555.20	2,683.20	4,798.45	5,038.46	5,290.65	5,555.00	5,833.28
2426	28.28	29.70	31.18	32.74	34.38	2,262.40	2,376.00	2,494.40	2,619.20	2,750.40	4,918.46	5,165.42	5,422.83	5,694.14	5,979.37
2427	28.99	30.44	31.96	33.56	35.24	2,319.20	2,435.20	2,556.80	2,684.80	2,819.20	5,041.94	5,294.12	5,558.48	5,836.76	6,128.94
2428	29.72	31.20	32.76	34.40	36.12	2,377.60	2,496.00	2,620.80	2,752.00	2,889.60	5,168.90	5,426.30	5,697.62	5,982.85	6,281.99
2429	30.46	31.98	33.58	35.28	37.02	2,436.80	2,553.40	2,686.40	2,820.80	2,961.60	5,297.60	5,561.96	5,840.23	6,132.42	6,438.52
2430	31.22	32.78	34.42	36.14	37.95	2,497.60	2,622.40	2,753.60	2,891.20	3,036.00	5,429.78	5,701.10	5,986.33	6,285.47	6,600.26
2431	32.00	33.60	35.28	37.04	38.90	2,560.00	2,688.00	2,822.40	2,963.20	3,112.00	5,565.44	5,843.71	6,135.90	6,442.00	6,765.48
2432	32.80	34.44	36.16	37.97	39.87	2,624.00	2,755.20	2,892.80	3,037.60	3,189.60	5,704.58	5,989.80	6,288.95	6,603.74	6,934.19
2433	33.62	35.30	37.07	38.92	40.86	2,689.60	2,824.00	2,965.60	3,113.60	3,268.80	5,847.19	6,139.38	6,447.21	6,768.97	7,106.37
2434	34.46	36.18	37.99	39.89	41.89	2,756.80	2,894.40	3,039.20	3,191.20	3,351.20	5,993.28	6,292.43	6,607.22	6,937.67	7,285.51
2435	35.32	37.09	38.94	40.89	42.93	2,825.60	2,967.20	3,115.20	3,271.20	3,434.40	6,142.85	6,450.69	6,772.44	7,111.59	7,466.39
2436	36.20	38.01	39.91	41.91	44.01	2,896.00	3,040.80	3,192.80	3,352.80	3,520.80	6,295.90	6,610.70	6,941.15	7,288.99	7,654.22
2437	37.11	38.96	40.91	42.96	45.11	2,968.80	3,116.80	3,272.80	3,436.80	3,608.80	6,454.17	6,775.92	7,115.07	7,471.60	7,845.83
2438	38.04	39.94	41.94	44.03	46.23	3,043.20	3,195.20	3,355.20	3,522.40	3,698.40	6,615.92	6,946.36	7,294.20	7,657.70	8,040.32
2439	38.99	40.94	42.98	45.13	47.39	3,119.20	3,275.20	3,438.40	3,610.40	3,791.20	6,781.14	7,120.28	7,476.08	7,849.01	8,242.07
2440	39.96	41.96	44.06	46.26	48.57	3,196.80	3,356.80	3,524.80	3,700.80	3,885.60	6,949.84	7,297.68	7,662.92	8,045.54	8,447.29
2441	40.96	43.01	45.16	47.42	49.79	3,276.80	3,440.80	3,612.80	3,793.60	3,983.20	7,123.76	7,480.30	7,854.23	8,247.29	8,659.48
2442	41.99	44.08	46.29	48.60	51.03	3,359.20	3,526.40	3,703.20	3,888.00	4,082.40	7,302.90	7,666.39	8,050.76	8,452.51	8,875.14
2443	43.03	45.19	47.45	49.82	52.31	3,442.40	3,615.20	3,796.00	3,985.60	4,184.80	7,483.78	7,859.44	8,252.50	8,664.69	9,097.76
2444	44.11	46.32	48.63	51.06	53.62	3,528.80	3,705.60	3,890.40	4,084.80	4,289.60	7,671.61	8,055.97	8,457.73	8,880.36	9,325.59
2445	45.21	47.47	49.85	52.34	54.96	3,616.80	3,797.60	3,988.00	4,187.20	4,396.80	7,862.92	8,255.98	8,669.91	9,102.97	9,568.64
2446	46.34	48.66	51.09	53.65	56.33	3,707.20	3,892.80	4,087.20	4,292.00	4,506.40	8,059.45	8,462.95	8,885.57	9,330.81	9,796.91
2447	47.50	49.88	52.37	54.99	57.74	3,800.00	3,990.40	4,189.60	4,399.20	4,619.20	8,261.20	8,675.13	9,108.19	9,563.86	10,042.14
2448	48.69	51.12	53.68	56.36	59.18	3,896.20	4,089.60	4,294.40	4,508.80	4,734.40	8,468.16	8,890.79	9,336.03	9,802.13	10,292.59
2449	49.91	52.40	55.02	57.77	60.66	3,992.80	4,192.00	4,401.60	4,621.60	4,852.80	8,680.35	9,113.41	9,569.08	10,047.36	10,549.99
2450	51.15	53.71	56.40	59.22	62.18	4,092.00	4,296.80	4,512.00	4,737.60	4,974.40	8,896.01	9,341.24	9,809.09	10,299.54	10,814.35
2451	52.43	55.05	57.81	60.70	63.73	4,194.40	4,404.00	4,624.80	4,856.00	5,098.40	9,118.63	9,574.30	10,054.32	10,556.94	11,083.92
2452	53.74	56.43	59.25	62.21	65.32	4,299.20	4,514.40	4,740.00	4,976.80	5,225.60	9,346.46	9,814.31	10,304.76	10,819.56	11,360.45
2453	55.09	57.84	60.73	63.77	66.96	4,407.20	4,627.20	4,858.40	5,101.60	5,356.80	9,581.25	10,059.53	10,562.16	11,090.88	11,645.68

CITY OF MODESTO  
 SCHEDULE OF SALARY RANGES IN CITY SERVICE FOR FY 19/20  
 EFFECTIVE: NOVEMBER 26 2019

UNREPRESENTED MANAGEMENT/CONFIDENTIAL

	HOURLY					BI-WEEKLY					MONTHLY				
	A	B	C	D	E	A	B	C	D	E	A	B	C	D	E
2454	56.46	58.29	62.25	65.36	68.63	4,516.80	4,743.20	4,980.00	5,228.80	5,490.40	9,819.52	10,311.72	10,826.52	11,367.41	11,936.13
2455	57.88	60.77	63.81	67.00	70.35	4,630.40	4,861.60	5,104.80	5,360.00	5,628.00	10,066.49	10,569.12	11,097.84	11,652.64	12,235.27
2456	59.32	62.29	65.40	68.67	72.10	4,745.60	4,983.20	5,232.00	5,493.60	5,768.00	10,316.93	10,833.48	11,374.37	11,943.09	12,539.63
2457	60.80	63.84	67.04	70.39	73.91	4,864.00	5,107.20	5,363.20	5,631.20	5,912.80	10,574.34	11,103.05	11,659.60	12,242.23	12,854.43
2458	62.32	65.44	68.71	72.15	75.75	4,985.60	5,235.20	5,496.80	5,772.00	6,060.00	10,838.69	11,381.32	11,950.04	12,548.33	13,174.44
2459	63.88	67.08	70.43	73.95	77.65	5,110.40	5,366.40	5,634.40	5,916.00	6,212.00	11,110.01	11,666.55	12,249.19	12,861.38	13,504.89
2460	65.48	68.75	72.19	75.80	79.59	5,238.40	5,500.00	5,775.20	6,064.00	6,367.20	11,388.28	11,957.00	12,555.28	13,183.14	13,842.29
2461	67.12	70.47	74.00	77.69	81.58	5,369.60	5,637.60	5,920.00	6,215.20	6,526.40	11,673.51	12,256.14	12,870.08	13,511.84	14,188.39
2462	68.79	72.23	75.85	79.64	83.62	5,503.20	5,778.40	6,068.00	6,371.20	6,689.60	11,963.96	12,562.24	13,191.83	13,850.99	14,543.19

CITY OF MODESTO  
 SCHEDULE OF SALARY RANGES IN CITY SERVICE FOR FY 20/21  
 EFFECTIVE: JUNE, 23 2020

UNREPRESENTED MANAGEMENT/CONFIDENTIAL

	HOURLY					BI-WEEKLY					MONTHLY				
	A	B	C	D	E	A	B	C	D	E	A	B	C	D	E
2419	24.27	25.49	26.76	28.10	29.51	1,941.60	2,039.20	2,140.80	2,248.00	2,360.80	4,221.04	4,433.22	4,654.10	4,887.15	5,132.38
2420	24.88	26.13	27.43	28.80	30.24	1,990.40	2,090.40	2,194.40	2,304.00	2,419.20	4,327.13	4,544.53	4,770.63	5,008.90	5,259.34
2421	25.50	26.78	28.12	29.52	31.00	2,040.00	2,142.40	2,249.60	2,361.60	2,480.00	4,434.96	4,657.58	4,890.63	5,134.12	5,391.92
2422	26.14	27.45	28.82	30.26	31.77	2,091.20	2,196.00	2,305.60	2,420.80	2,541.60	4,546.27	4,774.10	5,012.37	5,262.82	5,525.44
2423	26.79	28.13	29.54	31.02	32.57	2,143.20	2,250.40	2,363.20	2,481.60	2,605.60	4,659.32	4,892.37	5,137.60	5,395.00	5,664.57
2424	27.46	28.84	30.28	31.79	33.38	2,196.80	2,307.20	2,422.40	2,543.20	2,670.40	4,775.84	5,015.85	5,266.30	5,528.92	5,805.45
2425	28.15	29.56	31.04	32.59	34.22	2,252.00	2,364.80	2,483.20	2,607.20	2,737.60	4,895.85	5,141.08	5,398.48	5,668.05	5,951.54
2426	28.85	30.30	31.81	33.40	35.07	2,308.00	2,424.00	2,544.80	2,672.00	2,805.60	5,017.59	5,269.78	5,532.40	5,808.93	6,099.37
2427	29.58	31.05	32.61	34.24	35.96	2,366.40	2,484.00	2,608.80	2,739.20	2,876.00	5,144.55	5,400.22	5,671.53	5,955.02	6,252.42
2428	30.31	31.83	33.42	35.09	36.85	2,424.80	2,546.40	2,673.60	2,807.20	2,948.00	5,271.52	5,535.87	5,812.41	6,102.85	6,408.95
2429	31.07	32.63	34.26	35.97	37.77	2,486.60	2,610.40	2,740.80	2,877.60	3,021.60	5,403.69	5,675.01	5,958.50	6,255.90	6,568.96
2430	31.85	33.44	35.11	36.87	38.71	2,548.00	2,675.20	2,808.80	2,948.60	3,096.80	5,539.35	5,815.88	6,106.33	6,412.43	6,732.44
2431	32.65	34.28	35.99	37.79	39.68	2,612.00	2,742.40	2,879.20	3,023.20	3,174.40	5,678.49	5,961.98	6,259.38	6,572.44	6,901.15
2432	33.46	35.13	36.89	38.74	40.67	2,676.80	2,810.40	2,951.20	3,098.20	3,253.60	5,819.36	6,109.81	6,415.91	6,737.66	7,073.33
2433	34.30	36.01	37.81	39.70	41.69	2,744.00	2,880.80	3,024.80	3,176.00	3,336.20	5,965.46	6,262.86	6,575.92	6,904.62	7,250.72
2434	35.16	36.91	38.76	40.70	42.73	2,812.80	2,952.80	3,100.80	3,256.00	3,418.40	6,115.03	6,419.39	6,741.14	7,078.54	7,431.60
2435	36.03	37.84	39.73	41.71	43.80	2,882.40	3,027.20	3,178.40	3,336.80	3,504.00	6,266.34	6,581.13	6,909.84	7,254.20	7,617.70
2436	36.93	38.78	40.72	42.76	44.89	2,954.40	3,102.40	3,257.60	3,420.80	3,591.20	6,422.87	6,744.62	7,082.02	7,436.82	7,807.27
2437	37.86	39.75	41.74	43.82	46.02	3,028.80	3,180.00	3,339.20	3,505.60	3,681.60	6,584.61	6,913.32	7,259.42	7,621.17	8,003.80
2438	38.80	40.74	42.78	44.92	47.17	3,104.00	3,259.20	3,422.40	3,593.60	3,773.60	6,748.10	7,085.50	7,440.30	7,812.49	8,203.81
2439	39.77	41.76	43.85	46.04	48.34	3,181.60	3,340.80	3,508.00	3,683.20	3,867.20	6,916.80	7,262.90	7,626.39	8,007.28	8,407.29
2440	40.77	42.81	44.95	47.19	49.55	3,261.60	3,424.80	3,596.00	3,775.20	3,964.00	7,090.72	7,445.52	7,817.70	8,207.28	8,617.74
2441	41.79	43.88	46.07	48.37	50.79	3,343.20	3,510.40	3,685.60	3,869.60	4,063.20	7,268.12	7,631.61	8,012.49	8,412.51	8,833.40
2442	42.83	44.97	47.22	49.58	52.06	3,426.40	3,597.60	3,777.60	3,968.40	4,164.80	7,448.99	7,821.18	8,212.50	8,622.95	9,054.28
2443	43.90	46.10	48.40	50.82	53.36	3,512.00	3,688.00	3,872.00	4,065.60	4,268.80	7,635.09	8,017.71	8,417.73	8,838.61	9,280.37
2444	45.00	47.25	49.61	52.09	54.70	3,600.00	3,780.00	3,968.80	4,167.20	4,376.00	7,826.40	8,217.72	8,628.17	9,059.49	9,513.42
2445	46.13	48.43	50.85	53.39	56.06	3,690.40	3,874.40	4,068.00	4,271.20	4,484.80	8,022.93	8,422.95	8,843.83	9,285.59	9,749.96
2446	47.28	49.64	52.12	54.73	57.47	3,782.40	3,971.20	4,169.60	4,378.40	4,597.60	8,222.94	8,633.39	9,064.71	9,518.64	9,995.18
2447	48.46	50.88	53.43	56.10	58.90	3,876.80	4,070.40	4,274.40	4,468.00	4,712.00	8,428.16	8,849.05	9,292.55	9,756.91	10,243.89
2448	49.67	52.15	54.76	57.50	60.37	3,973.60	4,172.00	4,380.80	4,600.00	4,829.60	8,638.61	9,069.93	9,523.86	10,000.40	10,499.55
2449	50.91	53.46	56.13	58.94	61.88	4,072.80	4,276.80	4,490.40	4,715.20	4,950.40	8,854.27	9,297.06	9,762.13	10,250.84	10,762.17
2450	52.19	54.79	57.53	60.41	63.43	4,175.20	4,383.20	4,602.40	4,832.80	5,074.40	9,076.88	9,529.08	10,005.62	10,506.51	11,031.75
2451	53.49	56.16	58.97	61.92	65.02	4,278.20	4,492.80	4,717.60	4,953.60	5,201.60	9,302.98	9,767.35	10,256.06	10,768.13	11,308.28
2452	54.83	57.57	60.45	63.47	66.64	4,386.40	4,605.60	4,836.00	5,077.60	5,331.20	9,536.03	10,012.57	10,513.46	11,038.70	11,590.03
2453	56.20	59.01	61.96	66.06	68.31	4,496.00	4,720.80	4,956.80	5,204.80	5,464.80	9,774.30	10,263.02	10,776.08	11,315.24	11,880.48

CITY OF MODESTO  
 SCHEDULE OF SALARY RANGES IN CITY SERVICE FOR FY 20/21  
 EFFECTIVE: JUNE, 23 2020

UNREPRESENTED MANAGEMENT/CONFIDENTIAL

	HOURLY					BI-WEEKLY					MONTHLY				
	A	B	C	D	E	A	B	C	D	E	A	B	C	D	E
2454	57.60	60.48	63.51	66.58	70.02	4,608.00	4,838.40	5,080.80	5,334.40	5,601.60	10,017.79	10,518.68	11,045.66	11,596.99	12,177.88
2455	59.04	61.99	65.09	68.35	71.77	4,723.20	4,959.20	5,207.20	5,468.00	5,741.60	10,268.24	10,781.30	11,320.45	11,887.43	12,482.24
2456	60.52	63.54	66.72	70.06	73.56	4,841.60	5,083.20	5,337.60	5,604.80	5,884.80	10,525.64	11,050.88	11,603.94	12,184.84	12,793.56
2457	62.03	65.13	68.39	71.81	75.40	4,962.40	5,210.40	5,471.20	5,744.80	6,032.00	10,788.26	11,327.41	11,894.39	12,489.20	13,113.57
2458	63.58	66.76	70.10	73.60	77.28	5,086.40	5,340.80	5,608.00	5,888.00	6,182.40	11,057.83	11,610.80	12,191.79	12,800.51	13,440.54
2459	65.17	68.43	71.85	75.44	79.22	5,213.60	5,474.40	5,748.00	6,035.20	6,337.60	11,334.37	11,901.35	12,496.15	13,120.52	13,777.94
2460	66.80	70.14	73.65	77.33	81.20	5,344.00	5,611.20	5,892.00	6,186.40	6,496.00	11,617.86	12,198.75	12,809.21	13,449.23	14,122.30
2461	68.47	71.89	75.49	79.26	83.23	5,477.60	5,751.20	6,039.20	6,340.80	6,658.40	11,908.30	12,503.11	13,129.22	13,784.90	14,475.36
2462	70.18	73.69	77.38	81.24	85.31	5,614.40	5,895.20	6,190.40	6,499.20	6,824.80	12,205.71	12,816.16	13,457.93	14,129.26	14,837.12

CITY OF MODESTO  
 SCHEDULE OF SALARY RANGES IN CITY SERVICE FOR FY 21/22  
 EFFECTIVE: JUNE, 22 2021

UNREPRESENTED MANAGEMENT/CONFIDENTIAL

	HOURLY					BIWEEKLY					MONTHLY				
	A	B	C	D	E	A	B	C	D	E	A	B	C	D	E
2419	24.76	26.00	27.50	28.67	30.10	1,980.80	2,080.00	2,184.00	2,293.60	2,408.00	4,306.26	4,521.92	4,748.02	4,986.29	5,234.99
2420	25.38	26.65	27.99	29.38	30.85	2,030.40	2,132.00	2,239.20	2,350.40	2,468.00	4,414.09	4,634.97	4,868.02	5,109.77	5,365.43
2421	26.02	27.32	28.68	30.12	31.62	2,081.60	2,185.80	2,294.40	2,409.60	2,528.60	4,525.40	4,751.49	4,988.03	5,238.47	5,499.35
2422	26.67	28.00	29.40	30.87	32.42	2,133.60	2,240.00	2,352.00	2,469.60	2,593.60	4,638.45	4,869.76	5,113.25	5,368.91	5,638.49
2423	27.34	28.70	30.14	31.64	33.23	2,187.20	2,298.00	2,411.20	2,531.20	2,658.40	4,754.97	4,991.50	5,241.95	5,502.83	5,779.36
2424	28.02	29.42	30.89	32.43	34.06	2,241.60	2,353.60	2,471.20	2,594.40	2,724.80	4,873.24	5,116.73	5,372.39	5,640.23	5,923.72
2425	28.72	30.15	31.66	33.25	34.91	2,297.60	2,412.00	2,532.80	2,660.00	2,792.80	4,994.98	5,243.69	5,506.31	5,782.84	6,071.55
2426	29.44	30.91	32.45	34.08	35.78	2,355.20	2,472.80	2,596.00	2,726.40	2,862.40	5,120.20	5,375.87	5,643.70	5,927.19	6,222.86
2427	30.17	31.68	33.26	34.93	36.67	2,413.60	2,534.40	2,660.80	2,794.40	2,933.60	5,247.17	5,509.79	5,784.58	6,075.03	6,377.65
2428	30.93	32.47	34.10	35.80	37.59	2,474.40	2,597.60	2,728.00	2,864.00	3,007.20	5,379.35	5,647.18	5,930.67	6,226.34	6,537.65
2429	31.70	33.28	34.95	36.70	38.53	2,536.00	2,662.40	2,796.00	2,936.00	3,082.40	5,513.26	5,788.06	6,078.50	6,382.86	6,701.14
2430	32.49	34.12	35.82	37.61	39.49	2,599.20	2,729.60	2,866.80	3,008.80	3,159.20	5,650.66	5,934.15	6,229.81	6,541.13	6,868.10
2431	33.30	34.97	36.72	38.55	40.48	2,664.00	2,797.60	2,937.60	3,084.00	3,238.40	5,791.54	6,081.98	6,386.34	6,704.62	7,040.28
2432	34.14	35.84	37.64	39.52	41.49	2,731.20	2,867.20	3,011.20	3,161.60	3,319.20	5,937.63	6,233.29	6,546.35	6,873.32	7,215.94
2433	34.99	36.74	38.58	40.50	42.53	2,799.20	2,939.20	3,086.40	3,240.00	3,402.40	6,085.46	6,389.82	6,709.83	7,043.76	7,396.82
2434	35.88	37.66	39.54	41.52	43.59	2,868.80	3,012.80	3,163.20	3,321.60	3,487.20	6,236.77	6,549.83	6,876.80	7,221.16	7,581.17
2435	36.76	38.60	40.53	42.56	44.68	2,940.80	3,088.00	3,242.40	3,404.80	3,574.40	6,393.30	6,713.31	7,048.98	7,402.04	7,770.75
2436	37.68	39.56	41.54	43.62	45.80	3,014.40	3,164.80	3,323.20	3,489.60	3,664.00	6,553.30	6,880.28	7,224.64	7,586.39	7,965.54
2437	38.62	40.55	42.58	44.71	46.94	3,089.60	3,244.00	3,406.40	3,576.80	3,755.20	6,716.79	7,052.46	7,405.51	7,775.96	8,163.80
2438	39.59	41.57	43.64	45.83	48.12	3,167.20	3,325.60	3,491.20	3,666.40	3,849.60	6,885.49	7,229.85	7,589.87	7,970.75	8,369.03
2439	40.58	42.61	44.74	46.97	49.32	3,246.40	3,408.80	3,579.20	3,757.60	3,946.60	7,067.67	7,410.73	7,781.18	8,169.02	8,577.73
2440	41.59	43.67	45.85	48.15	50.55	3,327.20	3,493.60	3,668.00	3,852.00	4,044.00	7,233.33	7,595.09	7,974.23	8,374.25	8,791.66
2441	42.63	44.76	47.00	49.35	51.82	3,410.40	3,580.80	3,760.00	3,948.00	4,145.60	7,414.21	7,784.66	8,174.24	8,582.95	9,012.53
2442	43.70	45.88	48.18	50.58	53.11	3,496.00	3,670.40	3,854.40	4,046.40	4,248.80	7,600.30	7,979.45	8,379.47	8,796.87	9,236.89
2443	44.79	47.03	49.38	51.85	54.44	3,583.20	3,762.40	3,950.40	4,148.00	4,355.20	7,789.88	8,179.46	8,588.17	9,017.75	9,468.20
2444	45.91	48.20	50.61	53.14	55.80	3,672.80	3,856.00	4,048.80	4,251.20	4,464.00	7,984.67	8,382.94	8,802.09	9,242.11	9,704.74
2445	47.06	49.41	51.88	54.47	57.20	3,764.80	3,952.80	4,150.40	4,357.60	4,576.00	8,184.68	8,593.39	9,022.97	9,473.42	9,948.22
2446	48.23	50.64	53.18	55.83	58.63	3,858.40	4,051.20	4,254.40	4,466.40	4,690.40	8,388.16	8,807.31	9,249.07	9,709.95	10,196.93
2447	49.44	51.91	54.51	57.23	60.09	3,955.20	4,152.80	4,360.80	4,578.40	4,807.20	8,598.60	9,028.19	9,480.38	9,953.44	10,450.85
2448	50.67	53.21	55.87	58.66	61.59	4,053.60	4,256.80	4,469.60	4,692.80	4,927.20	8,812.53	9,254.28	9,716.91	10,202.15	10,711.73
2449	51.94	54.54	57.20	60.13	63.13	4,155.20	4,363.20	4,580.80	4,810.40	5,050.40	9,033.40	9,485.60	9,958.66	10,457.81	10,979.57
2450	53.24	55.90	58.70	61.63	64.71	4,259.20	4,472.00	4,696.00	4,930.40	5,176.80	9,259.50	9,722.13	10,209.10	10,718.69	11,254.36
2451	54.57	57.30	60.16	63.17	66.33	4,365.60	4,584.00	4,812.80	5,053.60	5,306.40	9,490.81	9,965.62	10,463.03	10,986.53	11,536.11
2452	55.93	58.73	61.67	64.75	67.99	4,474.40	4,698.40	4,933.60	5,180.00	5,439.20	9,727.35	10,214.32	10,725.65	11,261.32	11,824.82
2453	57.33	60.20	63.21	66.37	69.69	4,586.40	4,816.00	5,056.80	5,309.60	5,575.20	9,970.83	10,469.98	10,993.48	11,543.07	12,120.48

CITY OF MODESTO  
 SCHEDULE OF SALARY RANGES IN CITY SERVICE FOR FY 21/22  
 EFFECTIVE: JUNE, 22 2021

UNREPRESENTED MANAGEMENT/CONFIDENTIAL

	HOURLY					BI-WEEKLY					MONTHLY				
	A	B	C	D	E	A	B	C	D	E	A	B	C	D	E
2454	58.77	61.70	64.79	68.03	71.43	4,701.60	4,936.00	5,183.20	5,442.40	5,714.40	10,221.28	10,730.86	11,268.28	11,831.78	12,423.11
2455	60.23	63.25	66.41	69.73	73.21	4,818.40	5,060.00	5,312.80	5,578.40	5,856.80	10,475.20	11,000.44	11,560.03	12,127.44	12,732.88
2456	61.74	64.83	68.07	71.47	75.04	4,939.20	5,186.40	5,445.60	5,717.60	6,003.20	10,737.82	11,275.23	11,838.73	12,430.06	13,050.96
2457	63.28	66.45	69.77	73.26	76.92	5,062.40	5,316.00	5,581.60	5,860.80	6,153.60	11,005.66	11,556.98	12,134.40	12,741.38	13,377.93
2458	64.87	68.11	71.51	75.09	78.84	5,189.60	5,448.80	5,720.90	6,007.20	6,307.20	11,282.19	11,845.69	12,437.02	13,058.65	13,711.85
2459	66.49	69.81	73.30	76.97	80.81	5,319.20	5,584.80	5,864.00	6,157.60	6,464.80	11,563.94	12,141.36	12,748.34	13,386.62	14,054.48
2460	68.15	71.56	75.13	78.89	82.83	5,452.00	5,724.80	6,010.40	6,311.20	6,626.40	11,852.65	12,445.72	13,066.61	13,720.55	14,405.79
2461	69.85	73.35	77.01	80.86	84.91	5,588.00	5,868.00	6,160.80	6,468.80	6,792.80	12,148.31	12,757.03	13,393.58	14,063.17	14,767.55
2462	71.60	75.18	78.94	82.88	87.03	5,728.00	6,014.40	6,315.20	6,630.40	6,962.40	12,452.67	13,076.31	13,729.24	14,414.49	15,136.26

CITY OF MODESTO  
 SCHEDULE OF SALARY RANGES IN CITY SERVICE FOR FY 22/23  
 EFFECTIVE: JUNE, 21 2022

UNREPRESENTED MANAGEMENT/CONFIDENTIAL

	HOURLY					BI-WEEKLY					MONTHLY				
	A	B	C	D	E	A	B	C	D	E	A	B	C	D	E
2419	25.26	26.53	27.85	29.25	30.71	2,020.80	2,122.40	2,228.00	2,340.00	2,456.80	2,072.00	2,175.20	2,284.00	2,398.40	2,518.40
2420	25.90	27.19	28.55	29.98	31.48	2,123.20	2,229.60	2,340.80	2,458.40	2,580.80	2,176.80	2,285.60	2,400.00	2,520.00	2,645.60
2421	26.54	27.87	29.26	30.73	32.26	2,231.20	2,342.40	2,460.00	2,582.40	2,712.00	2,288.40	2,400.80	2,520.80	2,647.20	2,779.20
2422	27.21	28.57	30.00	31.50	33.07	2,344.00	2,460.80	2,584.00	2,713.60	2,848.80	2,402.40	2,522.40	2,648.80	2,780.80	2,920.00
2423	27.89	29.28	30.75	32.28	33.90	2,462.40	2,585.60	2,715.20	2,850.40	2,992.80	2,524.00	2,652.00	2,788.80	2,928.00	3,076.80
2424	28.58	30.01	31.51	33.09	34.74	2,582.00	2,716.80	2,852.00	2,995.20	3,144.80	2,652.00	2,794.80	2,924.00	3,069.60	3,223.20
2425	29.30	30.76	32.30	33.92	35.61	2,716.80	2,854.40	2,996.80	3,146.40	3,304.00	2,782.40	2,925.60	3,072.00	3,224.80	3,386.40
2426	30.03	31.53	33.11	34.76	36.50	2,856.00	2,998.40	3,148.80	3,305.60	3,471.20	2,927.20	3,073.60	3,227.20	3,388.80	3,557.60
2427	30.78	32.32	33.94	35.63	37.41	3,000.00	3,150.40	3,308.00	3,472.80	3,646.40	3,075.20	3,228.80	3,390.40	3,560.00	3,737.60
2428	31.55	33.13	34.78	36.52	38.35	3,152.00	3,309.60	3,475.20	3,648.80	3,831.20	3,231.20	3,392.80	3,562.40	3,740.00	3,927.20
2429	32.34	33.96	35.65	37.44	39.31	3,312.00	3,477.60	3,651.20	3,833.60	4,025.60	3,394.40	3,584.00	3,742.40	3,929.60	4,125.60
2430	33.15	34.81	36.55	38.37	40.29	3,479.20	3,653.60	3,836.00	4,028.00	4,228.80	3,566.40	3,744.80	3,932.00	4,128.80	4,335.20
2431	33.98	35.68	37.46	39.33	41.30	3,655.20	3,838.40	4,030.40	4,232.00	4,443.20	3,747.20	3,934.40	4,131.20	4,337.60	4,554.40
2432	34.83	36.57	38.40	40.31	42.33	3,840.80	4,032.80	4,234.40	4,445.60	4,668.00	3,936.80	4,133.60	4,340.00	4,556.80	4,784.80
2433	35.70	37.48	39.36	41.32	43.39	4,035.20	4,236.80	4,448.80	4,671.20	4,904.00	4,136.00	4,342.40	4,550.00	4,788.00	5,027.20
2434	36.59	38.42	40.34	42.36	44.47	4,239.20	4,451.20	4,673.60	4,907.20	5,152.80	4,344.80	4,562.40	4,790.40	5,029.60	5,281.60
2435	37.50	39.38	41.35	43.41	45.58	4,453.60	4,675.80	4,910.40	5,156.00	5,413.60	4,564.80	4,793.60	5,032.80	5,284.80	5,548.80
2436	38.44	40.36	42.38	44.50	46.72	4,679.20	4,912.80	5,158.40	5,416.80	5,687.20	4,792.00	5,034.40	5,288.00	5,552.00	5,827.20
2437	39.40	41.37	43.44	45.61	47.89	4,904.00	5,154.40	5,362.40	5,680.00	5,968.00	5,032.00	5,364.00	5,680.00	5,968.00	6,264.00
2438	40.39	42.41	44.53	46.75	49.09	5,152.00	5,364.00	5,562.40	5,833.60	6,125.60	5,312.00	5,564.00	5,836.00	6,128.00	6,400.00
2439	41.40	43.47	45.64	47.92	50.32	5,394.40	5,584.00	5,742.40	5,929.60	6,125.60	5,566.40	5,744.80	5,929.60	6,125.60	6,312.00
2440	42.43	44.56	46.78	49.12	51.57	5,648.00	5,848.00	6,008.00	6,168.00	6,328.00	5,812.00	6,012.00	6,172.00	6,332.00	6,532.00
2441	43.49	45.67	47.95	50.35	52.86	5,912.00	6,128.00	6,288.00	6,448.00	6,618.00	6,076.00	6,276.00	6,436.00	6,618.00	6,818.00
2442	44.58	46.81	49.15	51.61	54.19	6,184.00	6,392.00	6,552.00	6,712.00	6,872.00	6,348.00	6,548.00	6,708.00	6,868.00	7,028.00
2443	45.69	47.98	50.38	52.90	55.54	6,464.00	6,672.00	6,832.00	6,992.00	7,152.00	6,628.00	6,828.00	6,988.00	7,148.00	7,308.00
2444	46.84	49.18	51.64	54.22	56.93	6,752.00	6,968.00	7,128.00	7,288.00	7,448.00	6,918.00	7,118.00	7,278.00	7,438.00	7,598.00
2445	48.01	50.41	52.93	55.57	58.35	7,048.00	7,264.00	7,424.00	7,584.00	7,744.00	7,208.00	7,408.00	7,568.00	7,728.00	7,888.00
2446	49.21	51.67	54.25	56.96	59.81	7,352.00	7,576.00	7,740.00	7,904.00	8,068.00	7,528.00	7,728.00	7,892.00	8,056.00	8,220.00
2447	50.44	52.96	55.61	58.39	61.90	7,664.00	7,888.00	8,052.00	8,216.00	8,380.00	7,840.00	8,040.00	8,204.00	8,368.00	8,532.00
2448	51.70	54.28	57.00	59.85	62.84	7,984.00	8,208.00	8,372.00	8,536.00	8,700.00	8,168.00	8,372.00	8,536.00	8,700.00	8,864.00
2449	52.99	55.64	58.42	61.34	64.41	8,312.00	8,536.00	8,700.00	8,864.00	9,028.00	8,488.00	8,692.00	8,856.00	9,020.00	9,184.00
2450	54.31	57.03	59.88	62.87	66.02	8,648.00	8,872.00	9,036.00	9,200.00	9,364.00	8,828.00	9,032.00	9,196.00	9,360.00	9,524.00
2451	55.67	58.46	61.38	64.45	67.67	8,992.00	9,216.00	9,380.00	9,544.00	9,708.00	9,172.00	9,376.00	9,540.00	9,704.00	9,868.00
2452	57.06	59.92	62.91	66.06	69.36	9,344.00	9,568.00	9,732.00	9,896.00	10,060.00	9,524.00	9,728.00	9,892.00	10,056.00	10,220.00
2453	58.49	61.41	64.48	67.71	71.09	9,704.00	9,928.00	10,092.00	10,256.00	10,420.00	9,884.00	10,088.00	10,252.00	10,416.00	10,580.00

CITY OF MODESTO  
 SCHEDULE OF SALARY RANGES IN CITY SERVICE FOR FY 22/23  
 EFFECTIVE: JUNE, 21 2022

UNREPRESENTED MANAGEMENT/CONFIDENTIAL

	HOURLY					BI-WEEKLY					MONTHLY				
	A	B	C	D	E	A	B	C	D	E	A	B	C	D	E
2454	59.95	62.95	66.10	69.40	72.87	4,796.00	5,036.00	5,288.00	5,552.00	5,829.60	10,426.50	10,948.26	11,496.11	12,070.05	12,573.55
2455	61.45	64.52	67.75	71.14	74.69	4,916.00	5,161.60	5,420.00	5,691.20	5,975.20	10,687.38	11,221.32	11,783.08	12,372.67	12,990.08
2456	62.99	66.14	69.44	72.91	76.56	5,039.20	5,291.20	5,555.20	5,832.80	6,124.80	10,955.22	11,503.07	12,077.00	12,680.51	13,315.32
2457	64.56	67.79	71.18	74.74	78.47	5,164.80	5,423.20	5,694.40	5,979.20	6,277.60	11,228.28	11,790.04	12,379.63	12,998.78	13,647.50
2458	66.18	69.48	72.96	76.61	80.44	5,294.40	5,558.40	5,836.80	6,128.80	6,435.20	11,510.03	12,083.96	12,689.20	13,324.01	13,990.12
2459	67.83	71.22	74.78	78.52	82.45	5,428.40	5,697.60	5,982.40	6,281.60	6,596.00	11,796.99	12,386.58	13,005.74	13,656.20	14,339.70
2460	69.53	73.00	76.65	80.48	84.51	5,562.40	5,840.00	6,132.00	6,438.40	6,760.80	12,092.66	12,696.16	13,330.97	13,997.08	14,697.98
2461	71.26	74.83	78.57	82.50	86.62	5,700.80	5,986.40	6,285.60	6,600.00	6,929.60	12,393.54	13,014.43	13,664.89	14,346.40	15,064.95
2462	73.04	76.70	80.53	84.56	88.79	5,843.20	6,136.00	6,442.40	6,764.80	7,103.20	12,703.12	13,339.66	14,005.78	14,706.68	15,442.36

CITY OF MODESTO  
CLASS RANGE TABLE  
EXECUTIVE MANAGEMENT  
Effective **November 26, 2019**

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RANGE	TITLE
<b>1415</b>	<b>City Clerk</b>
<b>1421</b>	<b>City Auditor</b>
1422	Director of Utility Planning and Projects
<b>1423</b>	<b>Chief Information Officer</b> <b>Director of Finance</b> <b>Director of Human Resources</b> <b>Director of Parks, Recreation and Neighborhoods</b>
<b>1424</b>	<b>Director of Public Works</b>
1425	Director of Administrative Services
1426	Director of Community and Economic Development
<b>1428</b>	<b>Deputy City Manager</b>
1429	Director of Utilities
<b>1432</b>	<b>City Attorney</b>
<b>1437</b>	<b>City Manager</b>

CITY OF MODESTO  
CLASS RANGE TABLE  
EXECUTIVE MANAGEMENT  
Effective **June 23, 2020**

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RANGE	TITLE
1415	City Clerk
1421	City Auditor
1422	Director of Utility Planning and Projects
<b>1424</b>	<b>Chief Information Officer</b> <b>Director of Finance</b> <b>Director of Human Resources</b> <b>Director of Parks, Recreation and Neighborhoods</b>
<b>1425</b>	<b>Director of Public Works</b> Director of Administrative Services
1426	Director of Community and Economic Development
<b>1429</b>	<b>Deputy City Manager</b> Director of Utilities
<b>1434</b>	<b>City Attorney</b>
<b>1438</b>	<b>City Manager</b>

CITY OF MODESTO  
CLASS RANGE TABLE  
EXECUTIVE MANAGEMENT  
Effective **June 22, 2021**

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RANGE	TITLE
1415	City Clerk
1421	City Auditor
1422	Director of Utility Planning and Projects
1424	Chief Information Officer Director of Finance Director of Human Resources Director of Parks, Recreation and Neighborhoods
1425	Director of Administrative Services
<b>1426</b>	Director of Community and Economic Development <b>Director of Public Works</b>
1429	Director of Utilities
<b>1430</b>	<b>Deputy City Manager</b>
<b>1435</b>	<b>City Attorney</b>
1438	City Manager

**CITY OF MODESTO**  
**SCHEDULE OF SALARY RANGES IN CITY SERVICE FOR FY 19/20**  
**EFFECTIVE: NOVEMBER 26, 2019**

**Unrepresented Executive Management**

	Hourly		Biweekly		Monthly		
	Min	Max	Min	Max	Min	Max	
1405		41.78	52.23	3,342.40	4,178.40	7,266.38	9,083.84
1406		42.83	53.54	3,426.40	4,283.20	7,448.99	9,311.68
1407		43.90	54.87	3,512.00	4,389.60	7,635.09	9,542.99
1408		45.00	56.25	3,600.00	4,500.00	7,826.40	9,783.00
1409		46.12	57.65	3,689.60	4,612.00	8,021.19	10,026.49
1410		47.28	59.09	3,782.40	4,727.20	8,222.94	10,276.93
1411		48.46	60.57	3,876.80	4,845.60	8,428.16	10,534.33
1412		49.67	62.08	3,973.60	4,966.40	8,638.61	10,796.95
1413		50.91	63.64	4,072.80	5,091.20	8,854.27	11,068.27
1414		52.18	65.23	4,174.40	5,218.40	9,075.15	11,344.80
1415	City Clerk	53.49	66.86	4,279.20	5,348.80	9,302.98	11,628.29
1416		54.82	68.53	4,385.60	5,482.40	9,534.29	11,918.74
1417		56.19	70.24	4,495.20	5,619.20	9,772.56	12,216.14
1418		57.60	72.00	4,608.00	5,760.00	10,017.79	12,522.24
1419		59.04	73.80	4,723.20	5,904.00	10,268.24	12,835.30
1420		60.51	75.64	4,840.80	6,051.20	10,523.90	13,155.31
1421	City Auditor	62.03	77.53	4,962.40	6,202.40	10,788.26	13,484.02
1422	Director of Utility Planning and Projects	63.58	79.47	5,086.40	6,357.60	11,057.83	13,821.42
1423	Chief Information Officer	65.17	81.46	5,213.60	6,516.80	11,334.37	14,167.52
	Director of Finance	65.17	81.46	5,213.60	6,516.80	11,334.37	14,167.52
	Director of Human Resources	65.17	81.46	5,213.60	6,516.80	11,334.37	14,167.52
	Director of Parks, Recreation & Neighborhoods	65.17	81.46	5,213.60	6,516.80	11,334.37	14,167.52
1424	Director of Public Works	66.80	83.49	5,344.00	6,679.20	11,617.86	14,520.58
1425	Director of Administrative Services	68.47	85.58	5,477.60	6,846.40	11,908.30	14,884.07
1426	Director of Community and Economic Development	70.18	87.72	5,614.40	7,017.60	12,205.71	15,256.26
1427		71.93	89.91	5,754.40	7,192.80	12,510.07	15,637.15
1428	Deputy City Manager	73.73	92.16	5,898.40	7,372.80	12,823.12	16,028.47
1429	Director of Utilities	75.57	94.47	6,045.60	7,557.60	13,143.13	16,430.22
1430		77.46	96.83	6,196.80	7,746.40	13,471.84	16,840.67
1431		79.40	99.25	6,352.00	7,940.00	13,809.25	17,261.56
1432	City Attorney	81.38	101.73	6,510.40	8,138.40	14,153.61	17,692.88
1433		83.42	104.27	6,673.60	8,341.60	14,508.41	18,134.64
1434		85.50	106.88	6,840.00	8,550.40	14,870.16	18,588.57
1435		87.64	109.55	7,011.20	8,764.00	15,242.35	19,052.94
1436		89.83	112.29	7,186.40	8,983.20	15,623.23	19,529.48
1437	City Manager	92.08	115.10	7,366.40	9,208.00	16,014.55	20,018.19
1438		94.38	117.97	7,550.40	9,437.60	16,414.57	20,517.34
1439		96.74	120.92	7,739.20	9,673.60	16,825.02	21,030.41
1440		99.16	123.95	7,932.80	9,916.00	17,245.91	21,557.38
1441		101.64	127.04	8,131.20	10,163.20	17,677.23	22,094.80

CITY OF MODESTO  
SCHEDULE OF SALARY RANGES IN CITY SERVICE FOR FY 20/21  
EFFECTIVE: JUNE 23, 2020

Unrepresented Executive Management		Hourly		Biweekly		Monthly	
		Min	Max	Min	Max	Min	Max
1405		42.62	53.28	3,409.60	4,262.40	7,412.47	9,266.46
1406		43.69	54.61	3,495.20	4,368.80	7,598.56	9,497.77
1407		44.78	55.98	3,582.40	4,478.40	7,788.14	9,736.04
1408		45.90	57.38	3,672.00	4,590.40	7,982.93	9,979.53
1409		47.05	58.81	3,764.00	4,704.80	8,182.94	10,228.24
1410		48.23	60.28	3,858.40	4,822.40	8,388.16	10,483.90
1411		49.43	61.79	3,954.40	4,943.20	8,596.87	10,746.52
1412		50.67	63.33	4,053.60	5,066.40	8,812.53	11,014.35
1413		51.93	64.92	4,154.40	5,193.60	9,031.67	11,290.89
1414		53.23	66.54	4,258.40	5,323.20	9,257.76	11,572.64
1415	City Clerk	54.56	68.20	4,364.80	5,456.00	9,489.08	11,861.34
1416		55.93	69.91	4,474.40	5,592.80	9,727.35	12,158.75
1417		57.32	71.65	4,585.60	5,732.00	9,969.09	12,461.37
1418		58.76	73.45	4,700.80	5,876.00	10,219.54	12,774.42
1419		60.23	75.28	4,818.40	6,022.40	10,475.20	13,092.70
1420		61.73	77.16	4,938.40	6,172.80	10,736.08	13,419.67
1421	City Auditor	63.27	79.09	5,061.60	6,327.20	11,003.92	13,755.33
1422	Director of Utility Planning and Projects	64.86	81.07	5,188.80	6,485.60	11,280.45	14,099.69
1423		66.48	83.10	5,318.40	6,648.00	11,562.20	14,452.75
1424	Chief Information Officer	68.14	85.17	5,451.20	6,813.60	11,850.91	14,812.77
	Director of Finance	68.14	85.17	5,451.20	6,813.60	11,850.91	14,812.77
	Director of Human Resources	68.14	85.17	5,451.20	6,813.60	11,850.91	14,812.77
	Director of Parks, Recreation & Neighborhoods	68.14	85.17	5,451.20	6,813.60	11,850.91	14,812.77
1425	Director of Administrative Services	69.84	87.30	5,587.20	6,984.00	12,146.57	15,183.22
	Director of Public Works	69.84	87.30	5,587.20	6,984.00	12,146.57	15,183.22
1426	Director of Community and Economic Development	71.59	89.48	5,727.20	7,158.40	12,450.93	15,562.36
1427		73.38	91.72	5,870.40	7,337.60	12,762.25	15,951.94
1428		75.21	94.01	6,016.80	7,520.80	13,080.52	16,350.22
1429	Deputy City Manager	77.09	96.36	6,167.20	7,708.80	13,407.49	16,758.93
	Director of Utilities	77.09	96.36	6,167.20	7,708.80	13,407.49	16,758.93
1430		79.02	98.77	6,321.60	7,901.60	13,743.16	17,178.08
1431		81.00	101.24	6,480.00	8,099.20	14,087.52	17,607.66
1432		83.02	103.77	6,641.60	8,301.60	14,438.84	18,047.68
1433		85.10	106.37	6,808.00	8,509.60	14,800.59	18,499.87
1434	City Attorney	87.22	109.03	6,977.60	8,722.40	15,169.30	18,962.50
1435		89.40	111.75	7,152.00	8,940.00	15,548.45	19,435.56
1436		91.64	114.55	7,331.20	9,164.00	15,938.03	19,922.54
1437		93.93	117.41	7,514.40	9,392.80	16,336.31	20,419.95
1438	City Manager	96.28	120.35	7,702.40	9,628.00	16,745.02	20,931.27
1439		98.68	123.35	7,894.40	9,868.00	17,162.43	21,453.03
1440		101.15	126.44	8,092.00	10,115.20	17,592.01	21,990.44
1441		103.68	129.60	8,294.40	10,368.00	18,032.03	22,540.03

CITY OF MODESTO  
SCHEDULE OF SALARY RANGES IN CITY SERVICE FOR FY 21/22  
EFFECTIVE: JUNE 22, 2021

Unrepresented Executive Management		Hourly		Biweekly		Monthly	
		Min	Max	Min	Max	Min	Max
1405		43.48	54.35	3,478.40	4,348.00	7,562.04	9,452.55
1406		44.57	55.71	3,565.60	4,456.80	7,751.61	9,689.08
1407		45.69	57.11	3,655.20	4,568.80	7,946.40	9,932.57
1408		46.83	58.53	3,746.40	4,682.40	8,144.67	10,179.54
1409		48.00	60.00	3,840.00	4,800.00	8,348.16	10,435.20
1410		49.20	61.50	3,936.00	4,920.00	8,556.86	10,696.08
1411		50.43	63.03	4,034.40	5,042.40	8,770.79	10,962.18
1412		51.69	64.61	4,135.20	5,168.80	8,989.92	11,236.97
1413		52.98	66.23	4,238.40	5,298.40	9,214.28	11,518.72
1414		54.31	67.88	4,344.80	5,430.40	9,445.60	11,805.69
1415	City Clerk	55.66	69.58	4,452.80	5,566.40	9,680.39	12,101.35
1416		57.05	71.32	4,564.00	5,705.60	9,922.14	12,403.97
1417		58.48	73.10	4,678.40	5,848.00	10,170.84	12,713.55
1418		59.94	74.93	4,795.20	5,994.40	10,424.76	13,031.83
1419		61.44	76.80	4,915.20	6,144.00	10,685.64	13,357.06
1420		62.98	78.72	5,038.40	6,297.60	10,953.48	13,690.98
1421	City Auditor	64.55	80.69	5,164.00	6,455.20	11,226.54	14,033.60
1422	Director of Utility Planning and Projects	66.16	82.70	5,292.80	6,616.00	11,506.55	14,383.18
1423		67.82	84.77	5,425.60	6,781.60	11,795.25	14,743.20
1424	Chief Information Officer	69.51	86.89	5,560.80	6,951.20	12,089.18	15,111.91
	Director of Finance	69.51	86.89	5,560.80	6,951.20	12,089.18	15,111.91
	Director of Human Resources	69.51	86.89	5,560.80	6,951.20	12,089.18	15,111.91
	Director of Parks, Recreation & Neighborhoods	69.51	86.89	5,560.80	6,951.20	12,089.18	15,111.91
1425	Director of Administrative Services	71.25	89.06	5,700.00	7,124.80	12,391.80	15,489.32
1426	Director of Community and Economic Development	73.03	91.29	5,842.40	7,303.20	12,701.38	15,877.16
	Director of Public Works	73.03	91.29	5,842.40	7,303.20	12,701.38	15,877.16
1427		74.86	93.57	5,988.80	7,485.60	13,019.65	16,273.69
1428		76.73	95.91	6,138.40	7,672.80	13,344.88	16,680.67
1429	Director of Utilities	78.65	98.31	6,292.00	7,864.80	13,678.81	17,098.08
1430	Deputy City Manager	80.61	100.77	6,448.80	8,061.60	14,019.69	17,525.92
1431		82.63	103.29	6,610.40	8,263.20	14,371.01	17,964.20
1432		84.70	105.87	6,776.00	8,469.60	14,731.02	18,412.91
1433		86.81	108.51	6,944.80	8,680.80	15,098.00	18,872.06
1434		88.98	111.23	7,118.40	8,898.40	15,475.40	19,345.12
1435	City Attorney	91.21	114.01	7,296.80	9,120.80	15,863.24	19,828.62
1436		93.49	116.86	7,479.20	9,348.80	16,259.78	20,324.29
1437		95.82	119.78	7,665.60	9,582.40	16,665.01	20,832.14
1438	City Manager	98.22	122.77	7,857.60	9,821.60	17,082.42	21,352.16
1439		100.68	125.84	8,054.40	10,067.20	17,510.27	21,886.09
1440		103.19	128.99	8,255.20	10,319.20	17,946.80	22,433.94
1441		105.77	132.21	8,461.60	10,576.80	18,395.52	22,993.96

CITY OF MODESTO  
SCHEDULE OF SALARY RANGES IN CITY SERVICE FOR FY 22/23  
EFFECTIVE: JUNE 21, 2022

Unrepresented Executive Management		Hourly		Biweekly		Monthly	
		Min	Max	Min	Max	Min	Max
1405		44.35	55.44	3,548.00	4,435.20	7,713.35	9,642.12
1406		45.46	56.83	3,636.80	4,546.40	7,906.40	9,883.87
1407		46.60	58.25	3,728.00	4,660.00	8,104.67	10,130.84
1408		47.77	59.71	3,821.60	4,776.80	8,308.16	10,384.76
1409		48.96	61.20	3,916.80	4,896.00	8,515.12	10,643.90
1410		50.18	62.73	4,014.40	5,018.40	8,727.31	10,910.00
1411		51.44	64.30	4,115.20	5,144.00	8,946.44	11,183.06
1412		52.72	65.90	4,217.60	5,272.00	9,169.06	11,461.33
1413		54.04	67.55	4,323.20	5,404.00	9,398.64	11,748.30
1414		55.39	69.24	4,431.20	5,539.20	9,633.43	12,042.22
1415	City Clerk	56.78	70.97	4,542.40	5,677.60	9,875.18	12,343.10
1416		58.20	72.74	4,656.00	5,819.20	10,122.14	12,650.94
1417		59.65	74.56	4,772.00	5,964.80	10,374.33	12,967.48
1418		61.14	76.43	4,891.20	6,114.40	10,633.47	13,292.71
1419		62.67	78.34	5,013.60	6,267.20	10,899.57	13,624.89
1420		64.24	80.30	5,139.20	6,424.00	11,172.62	13,965.78
1421	City Auditor	65.84	82.30	5,267.20	6,584.00	11,450.89	14,313.62
1422	Director of Utility Planning and Projects	67.49	84.36	5,399.20	6,748.80	11,737.86	14,671.89
1423		69.18	86.47	5,534.40	6,917.60	12,031.79	15,038.86
1424	Chief Information Officer	70.91	88.63	5,672.80	7,090.40	12,332.67	15,414.53
	Director of Finance	70.91	88.63	5,672.80	7,090.40	12,332.67	15,414.53
	Director of Human Resources	70.91	88.63	5,672.80	7,090.40	12,332.67	15,414.53
	Director of Parks, Recreation & Neighborhoods	70.91	88.63	5,672.80	7,090.40	12,332.67	15,414.53
1425	Director of Administrative Services	72.68	90.85	5,814.40	7,268.00	12,640.51	15,800.63
1426	Director of Community and Economic Development	74.49	93.12	5,959.20	7,449.60	12,955.30	16,195.43
	Director of Public Works	74.49	93.12	5,959.20	7,449.60	12,955.30	16,195.43
1427		76.36	95.44	6,108.80	7,635.20	13,280.53	16,598.92
1428		78.27	97.83	6,261.60	7,826.40	13,612.72	17,014.59
1429	Director of Utilities	80.22	100.28	6,417.60	8,022.40	13,951.86	17,440.70
1430	Deputy City Manager	82.23	102.78	6,578.40	8,222.40	14,301.44	17,875.50
1431		84.28	105.35	6,742.40	8,428.00	14,657.98	18,322.47
1432		86.39	107.99	6,911.20	8,639.20	15,024.95	18,781.62
1433		88.55	110.69	7,084.00	8,855.20	15,400.62	19,251.20
1434		90.76	113.45	7,260.80	9,076.00	15,784.98	19,731.22
1435	City Attorney	93.03	116.29	7,442.40	9,303.20	16,179.78	20,225.16
1436		95.36	119.20	7,628.80	9,536.00	16,585.01	20,731.26
1437		97.74	122.18	7,819.20	9,774.40	16,998.94	21,249.55
1438	City Manager	100.19	125.23	8,015.20	10,018.40	17,425.04	21,780.00
1439		102.69	128.36	8,215.20	10,268.80	17,859.84	22,324.37
1440		105.26	131.57	8,420.80	10,525.60	18,306.82	22,882.65
1441		107.89	134.86	8,631.20	10,788.80	18,764.23	23,454.85



CITY OF MODESTO  
 SCHEDULE OF SALARY RANGES IN CITY SERVICE  
 UNREPRESENTED BATTALION CHIEFS  
 EFFECTIVE JUNE 20 2023

80 HOUR SCHEDULE

	HOURLY						BI-WEEKLY						MONTHLY					
	A	B	C	D	E	F	A	B	C	D	E	F	A	B	C	D	E	F
	1812	52.31	54.96	57.75	60.67	63.74	65.33	4,184.80	4,396.80	4,620.00	4,853.60	5,099.20	5,226.40	9,067.07	9,526.40	10,010.00	10,516.14	11,048.27
1813	53.62	56.34	59.19	62.19	65.33	68.60	4,289.60	4,507.20	4,735.20	4,975.20	5,226.40	5,488.00	9,294.14	9,765.60	10,259.60	10,779.60	11,323.87	11,890.67
1814	54.96	57.75	60.67	63.74	66.97	70.31	4,396.80	4,620.00	4,853.60	5,099.20	5,357.60	5,624.80	9,526.40	10,010.00	10,516.14	11,048.27	11,608.14	12,187.07
1815	56.34	59.19	62.19	65.33	68.64	72.07	4,507.20	4,735.20	4,975.20	5,226.40	5,491.20	5,765.60	9,765.60	10,259.60	10,779.60	11,323.87	11,897.60	12,492.14
1816	57.75	60.67	63.74	66.97	70.36	73.87	4,620.00	4,853.60	5,099.20	5,357.60	5,628.80	5,909.60	10,010.00	10,516.14	11,048.27	11,608.14	12,195.74	12,804.14
1817	59.19	62.19	65.33	68.64	72.11	75.72	4,735.20	4,975.20	5,226.40	5,491.20	5,768.80	6,057.60	10,259.60	10,779.60	11,323.87	11,897.60	12,499.07	13,124.80
1818	60.67	63.74	66.97	70.36	73.92	77.61	4,853.60	5,099.20	5,357.60	5,628.80	5,913.60	6,208.80	10,516.14	11,048.27	11,608.14	12,195.74	12,812.80	13,452.40
1819	62.19	65.33	68.64	72.11	75.77	79.55	4,975.20	5,226.40	5,491.20	5,768.80	6,061.60	6,364.00	10,779.60	11,323.87	11,897.60	12,499.07	13,133.47	13,788.67
1820	63.74	66.97	70.36	73.92	77.66	81.54	5,099.20	5,357.60	5,628.80	5,913.60	6,212.80	6,523.20	11,048.27	11,608.14	12,195.74	12,812.80	13,461.07	14,133.60
1821	65.33	68.64	72.11	75.77	79.60	83.58	5,226.40	5,491.20	5,768.80	6,061.60	6,368.00	6,686.40	11,323.87	11,897.60	12,499.07	13,133.47	13,797.34	14,487.20
1822	66.97	70.36	73.92	77.66	81.59	85.67	5,357.60	5,628.80	5,913.60	6,212.80	6,527.20	6,853.60	11,608.14	12,195.74	12,812.80	13,461.07	14,142.27	14,849.47
1823	68.64	72.11	75.77	79.60	83.63	87.81	5,491.20	5,768.80	6,061.60	6,368.00	6,690.40	7,024.80	11,897.60	12,499.07	13,133.47	13,797.34	14,495.87	15,220.40
1824	70.36	73.92	77.66	81.59	85.72	90.01	5,628.80	5,913.60	6,212.80	6,527.20	6,857.60	7,200.80	12,195.74	12,812.80	13,461.07	14,142.27	14,858.14	15,601.74

112 HOUR SCHEDULE

	HOURLY						BI-WEEKLY						MONTHLY					
	A	B	C	D	E	F	A	B	C	D	E	F	A	B	C	D	E	F
	0812	37.36	39.26	41.25	43.34	45.53	46.66	4,184.80	4,396.80	4,620.00	4,853.60	5,099.20	5,226.40	9,067.07	9,526.40	10,010.00	10,516.14	11,048.27
0813	38.30	40.24	42.28	44.42	46.66	49.00	4,289.60	4,507.20	4,735.20	4,975.20	5,226.40	5,488.00	9,294.14	9,765.60	10,259.60	10,779.60	11,323.87	11,890.67
0814	39.26	41.25	43.34	45.53	47.84	50.22	4,396.80	4,620.00	4,853.60	5,099.20	5,357.60	5,624.80	9,526.40	10,010.00	10,516.14	11,048.27	11,608.14	12,187.07
0815	40.24	42.28	44.42	46.66	49.03	51.48	4,507.20	4,735.20	4,975.20	5,226.40	5,491.20	5,765.60	9,765.60	10,259.60	10,779.60	11,323.87	11,897.60	12,492.14
0816	41.25	43.34	45.53	47.84	50.26	52.76	4,620.00	4,853.60	5,099.20	5,357.60	5,628.80	5,909.60	10,010.00	10,516.14	11,048.27	11,608.14	12,195.74	12,804.14
0817	42.28	44.42	46.66	49.03	51.51	54.09	4,735.20	4,975.20	5,226.40	5,491.20	5,768.80	6,057.60	10,259.60	10,779.60	11,323.87	11,897.60	12,499.07	13,124.80
0818	43.34	45.53	47.84	50.26	52.80	55.44	4,853.60	5,099.20	5,357.60	5,628.80	5,913.60	6,208.80	10,516.14	11,048.27	11,608.14	12,195.74	12,812.80	13,452.40
0819	44.42	46.66	49.03	51.51	54.12	56.82	4,975.20	5,226.40	5,491.20	5,768.80	6,061.60	6,364.00	10,779.60	11,323.87	11,897.60	12,499.07	13,133.47	13,788.67
0820	45.53	47.84	50.26	52.80	55.47	58.24	5,099.20	5,357.60	5,628.80	5,913.60	6,212.80	6,523.20	11,048.27	11,608.14	12,195.74	12,812.80	13,461.07	14,133.60
0821	46.66	49.03	51.51	54.12	56.86	59.70	5,226.40	5,491.20	5,768.80	6,061.60	6,368.00	6,686.40	11,323.87	11,897.60	12,499.07	13,133.47	13,797.34	14,487.20
0822	47.84	50.26	52.80	55.47	58.28	61.19	5,357.60	5,628.80	5,913.60	6,212.80	6,527.20	6,853.60	11,608.14	12,195.74	12,812.80	13,461.07	14,142.27	14,849.47
0823	49.03	51.51	54.12	56.86	59.74	62.72	5,491.20	5,768.80	6,061.60	6,368.00	6,690.40	7,024.80	11,897.60	12,499.07	13,133.47	13,797.34	14,495.87	15,220.40
0824	50.26	52.80	55.47	58.28	61.23	64.29	5,628.80	5,913.60	6,212.80	6,527.20	6,857.60	7,200.80	12,195.74	12,812.80	13,461.07	14,142.27	14,858.14	15,601.74

**CITY OF MODESTO**  
**SCHEDULE OF SALARY RANGES IN CITY SERVICE**  
**EFFECTIVE: JUNE 21 2022**

**UNREP FIRE DEPUTY CHIEFS 80 HOURS****HOURLY**

	1	2	3	4	5	6	7	8	9
515	55.41	56.80	58.22	59.68	61.17	62.70	64.26	65.87	67.52
516	56.80	58.22	59.68	61.17	62.70	64.26	65.87	67.52	69.20
517	58.22	59.68	61.17	62.70	64.26	65.87	67.52	69.20	70.93
518	59.68	61.17	62.70	64.26	65.87	67.52	69.20	70.93	72.71
519	61.17	62.70	64.26	65.87	67.52	69.20	70.93	72.71	74.53
520	62.70	64.26	65.87	67.52	69.20	70.93	72.71	74.53	76.39
521	64.26	65.87	67.52	69.20	70.93	72.71	74.53	76.39	78.30
522	65.87	67.52	69.20	70.93	72.71	74.53	76.39	78.30	80.26
523	67.52	69.20	70.93	72.71	74.53	76.39	78.30	80.26	82.26
524	69.20	70.93	72.71	74.53	76.39	78.30	80.26	82.26	84.32
525	70.93	72.71	74.53	76.39	78.30	80.26	82.26	84.32	86.43
526	72.71	74.53	76.39	78.30	80.26	82.26	84.32	86.43	88.59
527	74.53	76.39	78.30	80.26	82.26	84.32	86.43	88.59	90.80
528	76.39	78.30	80.26	82.26	84.32	86.43	88.59	90.80	93.07

**BI-WEEKLY**

	1	2	3	4	5	6	7	8	9
515	4,432.80	4,544.00	4,657.60	4,774.40	4,893.60	5,016.00	5,140.80	5,269.60	5,401.60
516	4,544.00	4,657.60	4,774.40	4,893.60	5,016.00	5,140.80	5,269.60	5,401.60	5,536.00
517	4,657.60	4,774.40	4,893.60	5,016.00	5,140.80	5,269.60	5,401.60	5,536.00	5,674.40
518	4,774.40	4,893.60	5,016.00	5,140.80	5,269.60	5,401.60	5,536.00	5,674.40	5,816.80
519	4,893.60	5,016.00	5,140.80	5,269.60	5,401.60	5,536.00	5,674.40	5,816.80	5,962.40
520	5,016.00	5,140.80	5,269.60	5,401.60	5,536.00	5,674.40	5,816.80	5,962.40	6,111.20
521	5,140.80	5,269.60	5,401.60	5,536.00	5,674.40	5,816.80	5,962.40	6,111.20	6,264.00
522	5,269.60	5,401.60	5,536.00	5,674.40	5,816.80	5,962.40	6,111.20	6,264.00	6,420.80
523	5,401.60	5,536.00	5,674.40	5,816.80	5,962.40	6,111.20	6,264.00	6,420.80	6,580.80
524	5,536.00	5,674.40	5,816.80	5,962.40	6,111.20	6,264.00	6,420.80	6,580.80	6,745.60
525	5,674.40	5,816.80	5,962.40	6,111.20	6,264.00	6,420.80	6,580.80	6,745.60	6,914.40
526	5,816.80	5,962.40	6,111.20	6,264.00	6,420.80	6,580.80	6,745.60	6,914.40	7,087.20
527	5,962.40	6,111.20	6,264.00	6,420.80	6,580.80	6,745.60	6,914.40	7,087.20	7,264.00
528	6,111.20	6,264.00	6,420.80	6,580.80	6,745.60	6,914.40	7,087.20	7,264.00	7,445.60

**MONTHLY**

	1	2	3	4	5	6	7	8	9
515	9,636.91	9,878.66	10,125.62	10,379.55	10,638.69	10,904.78	11,176.10	11,456.11	11,743.08
516	9,878.66	10,125.62	10,379.55	10,638.69	10,904.78	11,176.10	11,456.11	11,743.08	12,035.26
517	10,125.62	10,379.55	10,638.69	10,904.78	11,176.10	11,456.11	11,743.08	12,035.26	12,336.15
518	10,379.55	10,638.69	10,904.78	11,176.10	11,456.11	11,743.08	12,035.26	12,336.15	12,645.72
519	10,638.69	10,904.78	11,176.10	11,456.11	11,743.08	12,035.26	12,336.15	12,645.72	12,962.26
520	10,904.78	11,176.10	11,456.11	11,743.08	12,035.26	12,336.15	12,645.72	12,962.26	13,285.75
521	11,176.10	11,456.11	11,743.08	12,035.26	12,336.15	12,645.72	12,962.26	13,285.75	13,617.94
522	11,456.11	11,743.08	12,035.26	12,336.15	12,645.72	12,962.26	13,285.75	13,617.94	13,958.82
523	11,743.08	12,035.26	12,336.15	12,645.72	12,962.26	13,285.75	13,617.94	13,958.82	14,306.66
524	12,035.26	12,336.15	12,645.72	12,962.26	13,285.75	13,617.94	13,958.82	14,306.66	14,664.93
525	12,336.15	12,645.72	12,962.26	13,285.75	13,617.94	13,958.82	14,306.66	14,664.93	15,031.91
526	12,645.72	12,962.26	13,285.75	13,617.94	13,958.82	14,306.66	14,664.93	15,031.91	15,407.57
527	12,962.26	13,285.75	13,617.94	13,958.82	14,306.66	14,664.93	15,031.91	15,407.57	15,791.94
528	13,285.75	13,617.94	13,958.82	14,306.66	14,664.93	15,031.91	15,407.57	15,791.94	16,186.73

**CITY OF MODESTO  
SCHEDULE OF SALARY RANGES IN CITY SERVICE  
UNREPRESENTED FIRE DEPUTY CHIEFS  
EFFECTIVE JUNE 20 2023**

	HOURLY						BI-WEEKLY						MONTHLY					
	A	B	C	D	E	F	A	B	C	D	E	F	A	B	C	D	E	F
<b>0515</b>	55.41	58.22	61.17	64.26	67.52	70.89	4,432.80	4,657.60	4,893.60	5,140.80	5,401.60	5,671.20	9,604.40	10,091.47	10,602.80	11,138.40	11,703.47	12,287.60
<b>0516</b>	56.80	59.68	62.70	65.87	69.20	72.66	4,432.80	4,774.40	5,016.00	5,269.60	5,536.00	5,812.80	9,845.34	10,344.54	10,868.00	11,417.47	11,994.67	12,594.40
<b>0517</b>	58.22	61.17	64.26	67.52	70.93	74.48	4,657.60	4,893.60	5,140.80	5,401.60	5,674.40	5,958.40	10,091.47	10,602.80	11,138.40	11,703.47	12,294.54	12,909.87
<b>0518</b>	59.68	62.70	65.87	69.20	72.71	76.34	4,774.40	5,016.00	5,269.60	5,536.00	5,816.80	6,107.20	10,344.54	10,868.00	11,417.47	11,994.67	12,603.07	13,232.27
<b>0519</b>	61.17	64.26	67.52	70.93	74.53	78.25	4,893.60	5,140.80	5,401.60	5,674.40	5,962.40	6,260.00	10,602.80	11,138.40	11,703.47	12,294.54	12,918.54	13,563.34
<b>0520</b>	62.70	65.87	69.20	72.71	76.39	80.21	5,016.00	5,269.60	5,536.00	5,816.80	6,111.20	6,416.80	10,868.00	11,417.47	11,994.67	12,603.07	13,240.94	13,903.07
<b>0521</b>	64.26	67.52	70.93	74.53	78.30	82.21	5,140.80	5,401.60	5,674.40	5,962.40	6,264.00	6,576.80	11,138.40	11,703.47	12,294.54	12,918.54	13,572.00	14,249.74
<b>0522</b>	65.87	69.20	72.71	76.39	80.26	84.27	5,269.60	5,536.00	5,816.80	6,111.20	6,420.80	6,741.60	11,417.47	11,994.67	12,603.07	13,240.94	13,911.74	14,606.80
<b>0523</b>	67.52	70.93	74.53	78.30	82.26	86.37	5,401.60	5,674.40	5,962.40	6,264.00	6,580.80	6,909.60	11,703.47	12,294.54	12,918.54	13,572.00	14,258.40	14,970.80
<b>0524</b>	69.20	72.71	76.39	80.26	84.32	88.53	5,536.00	5,816.80	6,111.20	6,420.80	6,745.60	7,082.40	11,994.67	12,603.07	13,240.94	13,911.74	14,615.47	15,345.20
<b>0525</b>	70.93	74.53	78.30	82.26	86.43	90.75	5,674.40	5,962.40	6,264.00	6,580.80	6,914.40	7,260.00	12,294.54	12,918.54	13,572.00	14,258.40	14,981.20	15,730.00
<b>0526</b>	72.71	76.39	80.26	84.32	88.59	93.02	5,816.80	6,111.20	6,420.80	6,745.60	7,087.20	7,441.60	12,603.07	13,240.94	13,911.74	14,615.47	15,355.60	16,123.47
<b>0527</b>	74.53	78.30	82.26	86.43	90.80	95.34	5,962.40	6,264.00	6,580.80	6,914.40	7,264.00	7,627.20	12,918.54	13,572.00	14,258.40	14,981.20	15,738.67	16,525.60
<b>0528</b>	76.39	80.26	84.32	88.59	93.07	97.72	6,111.20	6,420.80	6,745.60	7,087.20	7,445.60	7,817.60	13,240.94	13,911.74	14,615.47	15,355.60	16,132.14	16,938.14

**CITY OF MODESTO  
SCHEDULE OF SALARY RANGES IN CITY SERVICE  
EFFECTIVE: JUNE 21 2022**

**Unrepresented Fire Chief**

	Hourly		Biweekly		Monthly		
	Min	Max	Min	Max	Min	Max	
1705	46.13	57.67	3,690.40	4,613.60	8,022.93	10,029.97	
1706	47.29	59.11	3,783.20	4,728.80	8,224.68	10,280.41	
1707	48.47	60.59	3,877.60	4,847.20	8,429.90	10,537.81	
1708	49.68	62.10	3,974.40	4,968.00	8,640.35	10,800.43	
1709	50.92	63.65	4,073.60	5,092.00	8,856.01	11,070.01	
1710	52.20	65.24	4,176.00	5,219.20	9,078.62	11,346.54	
1711	53.50	66.88	4,280.00	5,350.40	9,304.72	11,631.77	
1712	54.84	68.55	4,387.20	5,484.00	9,537.77	11,922.22	
1713	56.21	70.26	4,496.80	5,620.80	9,776.04	12,219.62	
1714	57.62	72.02	4,609.60	5,761.60	10,021.27	12,525.72	
1715	59.06	73.82	4,724.80	5,905.60	10,271.72	12,838.77	
1716	60.53	75.66	4,842.40	6,052.80	10,527.38	13,158.79	
1717	62.04	77.55	4,963.20	6,204.00	10,790.00	13,487.50	
1718	63.60	79.49	5,088.00	6,359.20	11,061.31	13,824.90	
1719	65.19	81.48	5,215.20	6,518.40	11,337.84	14,171.00	
1720	66.81	83.52	5,344.80	6,681.60	11,619.60	14,525.80	
1721	68.49	85.61	5,479.20	6,848.80	11,911.78	14,889.29	
1722	70.20	87.75	5,616.00	7,020.00	12,209.18	15,261.48	
1723	71.95	89.94	5,756.00	7,195.20	12,513.54	15,642.36	
1724	73.75	92.19	5,900.00	7,375.20	12,826.60	16,033.68	
1725	75.59	94.49	6,047.20	7,559.20	13,146.61	16,433.70	
1726	77.48	96.85	6,198.40	7,748.00	13,475.32	16,844.15	
1727	79.42	99.28	6,353.60	7,942.40	13,812.73	17,266.78	
1728	81.41	101.76	6,512.80	8,140.80	14,158.83	17,698.10	
1729	Fire Chief	83.44	104.30	6,675.20	8,344.00	14,511.88	18,139.86
1730		85.53	106.91	6,842.40	8,552.80	14,875.38	18,593.79
1731		87.67	109.58	7,013.60	8,766.40	15,247.57	19,058.15
1732		89.86	112.32	7,188.80	8,985.60	15,628.45	19,534.69
1733		92.10	115.13	7,368.00	9,210.40	16,018.03	20,023.41
1734		94.41	118.01	7,552.80	9,440.80	16,419.79	20,524.30
1735		96.77	120.96	7,741.60	9,676.80	16,830.24	21,037.36
1736		99.18	123.98	7,934.40	9,918.40	17,249.39	21,562.60
1737		101.66	127.08	8,132.80	10,166.40	17,680.71	22,101.75
1738		104.21	130.26	8,336.80	10,420.80	18,124.20	22,654.82
1739		106.81	133.51	8,544.80	10,680.80	18,576.40	23,220.06
1740		109.48	136.85	8,758.40	10,948.00	19,040.76	23,800.95
1741		112.22	140.27	8,977.60	11,221.60	19,517.30	24,395.76

**CITY OF MODESTO  
SCHEDULE OF SALARY RANGES IN CITY SERVICE  
UNREPRESENTED FIRE CHIEF  
EFFECTIVE JUNE 20 2023**

	HOURLY		BIWEEKLY		MONTHLY	
	MIN	MAX	MIN	MAX	MIN	MAX
1705	46.13	59.97	3,690.40	4,797.60	7,995.87	10,394.80
1706	47.29	61.47	3,783.20	4,917.60	8,196.94	10,654.80
1707	48.47	63.01	3,877.60	5,040.80	8,401.47	10,921.74
1708	49.68	64.59	3,974.40	5,167.20	8,611.20	11,195.60
1709	50.92	66.20	4,073.60	5,296.00	8,826.14	11,474.67
1710	52.20	67.85	4,176.00	5,428.00	9,048.00	11,760.67
1711	53.50	69.55	4,280.00	5,564.00	9,273.34	12,055.34
1712	54.84	71.29	4,387.20	5,703.20	9,505.60	12,356.94
1713	56.21	73.07	4,496.80	5,845.60	9,743.07	12,665.47
1714	57.62	74.90	4,609.60	5,992.00	9,987.47	12,982.67
1715	59.06	76.77	4,724.80	6,141.60	10,237.07	13,306.80
1716	60.53	78.69	4,842.40	6,295.20	10,491.87	13,639.60
1717	62.04	80.66	4,963.20	6,452.80	10,753.60	13,981.07
1718	63.60	82.67	5,088.00	6,613.60	11,024.00	14,329.47
1719	65.19	84.74	5,215.20	6,779.20	11,299.60	14,688.27
1720	66.81	86.86	5,344.80	6,948.80	11,580.40	15,055.74
1721	68.49	89.03	5,479.20	7,122.40	11,871.60	15,431.87
1722	70.20	91.25	5,616.00	7,300.00	12,168.00	15,816.67
1723	71.95	93.54	5,756.00	7,483.20	12,471.34	16,213.60
1724	73.75	95.87	5,900.00	7,669.60	12,783.34	16,617.47
1725	75.59	98.27	6,047.20	7,861.60	13,102.27	17,033.47
1726	77.48	100.73	6,198.40	8,058.40	13,429.87	17,459.87
1727	79.42	103.25	6,353.60	8,260.00	13,766.14	17,896.67
1728	81.41	105.83	6,512.80	8,466.40	14,111.07	18,343.87
1729 Fire Chief	83.44	108.47	6,675.20	8,677.60	14,462.94	18,801.47
1730	85.53	111.18	6,842.40	8,894.40	14,825.20	19,271.20
1731	87.67	113.96	7,013.60	9,116.80	15,196.14	19,753.07
1732	89.86	116.81	7,188.80	9,344.80	15,575.74	20,247.07
1733	92.10	119.73	7,368.00	9,578.40	15,964.00	20,753.20
1734	94.41	122.73	7,552.80	9,818.40	16,364.40	21,273.20
1735	96.77	125.79	7,741.60	10,063.20	16,773.47	21,803.60
1736	99.18	128.94	7,934.40	10,315.20	17,191.20	22,349.60
1737	101.66	132.16	8,132.80	10,572.80	17,621.07	22,907.74
1738	104.21	135.47	8,336.80	10,837.60	18,063.07	23,481.47
1739	106.81	138.85	8,544.80	11,108.00	18,513.74	24,067.34
1740	109.48	142.32	8,758.40	11,385.60	18,976.54	24,668.80
1741	112.22	145.88	8,977.60	11,670.40	19,451.47	25,285.87

CITY OF MODESTO  
CLASS RANGE TABLE  
FIRE MANAGEMENT CLASSES  
Effective **September 7, 2021**

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RANGE

TITLE

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**524 Fire Deputy Chief**

819 Fire Battalion Chief (112 hrs)

1819 Fire Battalion Chief (80 hrs)

CITY OF MODESTO  
CLASS RANGE TABLE  
SWORN FIRE EXECUTIVE MANAGEMENT  
Effective **July 12, 2016**

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RANGE	TITLE
<b>1729</b>	Fire Chief

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CITY OF MODESTO  
CLASS RANGE TABLE  
POLICE MANAGEMENT CLASSES (Unrepresented)  
Effective **June 26, 2018**

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RANGE	TITLE
1627	Police Captain
<b>1632</b>	<b>Assistant Chief of Police</b>

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Exhibit "23"

**CITY OF MODESTO  
SCHEDULE OF SALARY RANGES IN CITY SERVICE FOR FY 20/21  
EFFECTIVE: June 23, 2020**

Percentage Increase      3.0%

**UNREPRESENTED POLICE CAPTAINS  
HOURLY**

**MONTHLY = 2.174**

**BY-WEEKLY**

	A	B	C	D	E	A	B	C	D	E	A	B	C	D
1601	34.81	36.57	38.39	40.31	42.33	2,785.12	2,925.60	3,071.20	3,224.80	3,386.40	6,054.85	6,360.25	6,676.79	7,010.72
1602	35.70	37.48	39.35	41.32	43.39	2,856.00	2,998.40	3,148.00	3,305.60	3,471.20	6,208.94	6,518.52	6,843.75	7,186.37
1603	36.59	38.42	40.34	42.35	44.47	2,927.20	3,073.60	3,227.20	3,388.00	3,557.60	6,363.73	6,682.01	7,015.93	7,365.51
1604	37.50	39.38	41.35	43.41	45.58	3,000.00	3,150.40	3,308.00	3,472.80	3,646.40	6,522.00	6,848.97	7,191.59	7,549.87
1605	38.44	40.36	42.38	44.50	46.72	3,075.20	3,228.80	3,390.40	3,560.00	3,737.60	6,685.48	7,019.41	7,370.73	7,739.44
1606	39.40	41.37	43.44	45.61	47.89	3,152.00	3,309.60	3,475.20	3,648.80	3,831.20	6,852.45	7,195.07	7,555.08	7,932.49
1607	40.39	42.40	44.52	46.75	49.09	3,231.20	3,392.00	3,561.60	3,740.00	3,927.20	7,024.63	7,374.21	7,742.92	8,130.76
1608	41.40	43.46	45.64	47.92	50.31	3,312.00	3,476.80	3,651.20	3,833.60	4,024.80	7,200.29	7,558.56	7,937.71	8,334.25
1609	42.43	44.55	46.78	49.12	51.57	3,394.40	3,564.00	3,742.40	3,929.60	4,125.60	7,379.43	7,748.14	8,135.98	8,542.95
1610	43.49	45.66	47.95	50.34	52.86	3,479.20	3,652.80	3,836.00	4,027.20	4,228.80	7,563.78	7,941.19	8,339.46	8,755.13
1611	44.58	46.81	49.15	51.60	54.18	3,566.40	3,744.80	3,932.00	4,128.00	4,334.40	7,753.35	8,141.20	8,548.17	8,974.27
1612	45.69	47.98	50.37	52.89	55.54	3,655.20	3,838.40	4,029.60	4,231.20	4,443.20	7,946.40	8,344.68	8,760.35	9,198.63
1613	46.83	49.18	51.63	54.22	56.93	3,746.40	3,934.40	4,130.40	4,337.60	4,554.40	8,144.67	8,553.39	8,979.49	9,429.94
1614	48.00	50.40	52.92	55.57	58.35	3,840.00	4,032.00	4,233.60	4,445.60	4,668.00	8,348.16	8,765.57	9,203.85	9,664.73
1615	49.20	51.66	54.25	56.96	59.81	3,936.00	4,132.80	4,340.00	4,556.80	4,784.80	8,556.86	8,984.71	9,435.16	9,906.48
1616	50.43	52.96	55.60	58.38	61.30	4,034.40	4,236.80	4,448.00	4,670.40	4,904.00	8,770.79	9,210.80	9,669.95	10,153.45
1617	51.70	54.28	56.99	59.84	62.84	4,136.00	4,342.40	4,559.20	4,787.20	5,027.20	8,991.66	9,440.38	9,911.70	10,407.37
1618	52.99	55.64	58.42	61.34	64.41	4,239.20	4,451.20	4,673.60	4,907.20	5,152.80	9,216.02	9,676.91	10,160.41	10,668.25
1619	54.31	57.03	59.88	62.87	66.02	4,344.80	4,562.40	4,790.40	5,029.60	5,281.60	9,445.60	9,918.66	10,414.33	10,934.35
1620	55.67	58.45	61.38	64.44	67.67	4,453.60	4,676.00	4,910.40	5,155.20	5,413.60	9,682.13	10,165.62	10,675.21	11,207.40
1621	57.06	59.91	62.91	66.06	69.36	4,564.80	4,792.80	5,032.80	5,284.80	5,548.80	9,923.88	10,419.55	10,941.31	11,489.16
1622	58.49	61.41	64.48	67.71	71.09	4,679.20	4,912.80	5,158.40	5,416.80	5,687.20	10,172.58	10,680.43	11,214.36	11,776.12
1623	59.95	62.95	66.09	69.40	72.87	4,796.00	5,036.00	5,287.20	5,552.00	5,829.60	10,426.50	10,948.26	11,494.37	12,070.05
1624	61.45	64.52	67.75	71.13	74.69	4,916.00	5,161.60	5,420.00	5,690.40	5,975.20	10,687.38	11,221.32	11,783.08	12,370.93
1625	62.98	66.13	69.44	72.91	76.56	5,038.40	5,290.40	5,555.20	5,832.80	6,124.80	10,953.48	11,501.33	12,077.00	12,680.51
1626	64.56	67.79	71.18	74.73	78.47	5,164.80	5,423.20	5,694.40	5,978.40	6,277.60	11,228.28	11,790.04	12,379.63	12,997.04
1627	66.17	69.48	72.96	76.60	80.43	5,293.60	5,558.40	5,836.80	6,128.00	6,434.40	11,508.29	12,083.96	12,689.20	13,322.27
1628	67.83	71.22	74.78	78.52	82.44	5,426.40	5,697.60	5,982.40	6,281.60	6,595.20	11,796.99	12,386.58	13,005.74	13,656.20

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7,362.03
7,546.39
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9,193.41
9,422.99
9,659.52
9,901.27
10,148.23
10,402.16
10,661.30
10,929.13
11,202.19
11,482.20
11,769.17
12,063.09
12,363.97
12,673.55
12,990.08
13,315.32
13,647.50
13,988.39
14,337.96

**CITY OF MODESTO  
SCHEDULE OF SALARY RANGES IN CITY SERVICE FOR FY 21/22  
EFFECTIVE: June 22, 2021**

Percentage Increase      3.0%

**UNREPRESENTED POLICE CAPTAINS  
HOURLY**

**MONTHLY = 2.174**

**BY-WEEKLY**

	A	B	C	D	E	A	B	C	D	E	A	B	C	D
1601	35.85	37.66	39.54	41.52	43.59	2,868.34	3,012.80	3,163.20	3,321.60	3,487.20	6,235.78	6,549.83	6,876.80	7,221.16
1602	36.76	38.60	40.53	42.56	44.68	2,940.80	3,088.00	3,242.40	3,404.80	3,574.40	6,393.30	6,713.31	7,048.98	7,402.04
1603	37.68	39.56	41.54	43.62	45.80	3,014.40	3,164.80	3,323.20	3,489.60	3,664.00	6,553.31	6,880.28	7,224.64	7,586.39
1604	38.62	40.55	42.58	44.71	46.94	3,089.60	3,244.00	3,406.40	3,576.80	3,755.20	6,716.79	7,052.46	7,405.51	7,775.96
1605	39.59	41.57	43.64	45.83	48.12	3,167.20	3,325.60	3,491.20	3,666.40	3,849.60	6,885.49	7,229.85	7,589.87	7,970.75
1606	40.58	42.61	44.74	46.97	49.32	3,246.40	3,408.80	3,579.20	3,757.60	3,945.60	7,057.67	7,410.73	7,781.18	8,169.02
1607	41.59	43.67	45.85	48.15	50.55	3,327.20	3,493.60	3,668.00	3,852.00	4,044.00	7,233.33	7,595.09	7,974.23	8,374.25
1608	42.63	44.76	47.00	49.35	51.82	3,410.40	3,580.80	3,760.00	3,948.00	4,145.60	7,414.21	7,784.66	8,174.24	8,582.95
1609	43.70	45.88	48.18	50.58	53.11	3,496.00	3,670.40	3,854.40	4,046.40	4,248.80	7,600.30	7,979.45	8,379.47	8,796.87
1610	44.79	47.03	49.38	51.85	54.44	3,583.20	3,762.40	3,950.40	4,148.00	4,355.20	7,789.88	8,179.46	8,588.17	9,017.75
1611	45.91	48.20	50.61	53.14	55.80	3,672.80	3,856.00	4,048.80	4,251.20	4,464.00	7,984.67	8,382.94	8,802.09	9,242.11
1612	47.06	49.41	51.88	54.47	57.20	3,764.80	3,952.80	4,150.40	4,357.60	4,576.00	8,184.68	8,593.39	9,022.97	9,473.42
1613	48.23	50.64	53.18	55.83	58.63	3,858.40	4,051.20	4,254.40	4,466.40	4,690.40	8,388.16	8,807.31	9,249.07	9,709.95
1614	49.44	51.91	54.51	57.23	60.09	3,955.20	4,152.80	4,360.80	4,578.40	4,807.20	8,598.60	9,028.19	9,480.38	9,953.44
1615	50.67	53.21	55.87	58.66	61.59	4,053.60	4,256.80	4,469.60	4,692.80	4,927.20	8,812.53	9,254.28	9,716.91	10,202.15
1616	51.94	54.54	57.26	60.13	63.13	4,155.20	4,363.20	4,580.80	4,810.40	5,050.40	9,033.40	9,485.60	9,958.66	10,457.81
1617	53.24	55.90	58.70	61.63	64.71	4,259.20	4,472.00	4,696.00	4,930.40	5,176.80	9,259.50	9,722.13	10,209.10	10,718.69
1618	54.57	57.30	60.16	63.17	66.33	4,365.60	4,584.00	4,812.80	5,053.60	5,306.40	9,490.81	9,965.62	10,463.03	10,986.53
1619	55.93	58.73	61.67	64.75	67.99	4,474.40	4,698.40	4,933.60	5,180.00	5,439.20	9,727.35	10,214.32	10,725.65	11,261.32
1620	57.33	60.20	63.21	66.37	69.69	4,586.40	4,816.00	5,056.80	5,309.60	5,575.20	9,970.83	10,469.98	10,993.48	11,543.07
1621	58.77	61.70	64.79	68.03	71.43	4,701.60	4,936.00	5,183.20	5,442.40	5,714.40	10,221.28	10,730.86	11,268.28	11,831.78
1622	60.23	63.25	66.41	69.73	73.21	4,818.40	5,060.00	5,312.80	5,578.40	5,856.80	10,475.20	11,000.44	11,550.03	12,127.44
1623	61.74	64.83	68.07	71.47	75.04	4,939.20	5,186.40	5,445.60	5,717.60	6,003.20	10,737.82	11,275.23	11,838.73	12,430.06
1624	63.28	66.45	69.77	73.26	76.92	5,062.40	5,316.00	5,581.60	5,860.80	6,153.60	11,005.66	11,556.98	12,134.40	12,741.38
1625	64.87	68.11	71.51	75.09	78.84	5,189.60	5,448.80	5,720.80	6,007.20	6,307.20	11,282.19	11,845.69	12,437.02	13,059.65
1626	66.49	69.81	73.30	76.97	80.81	5,319.20	5,584.80	5,864.00	6,157.60	6,464.80	11,563.94	12,141.36	12,748.34	13,386.62
1627	68.15	71.56	75.13	78.89	82.84	5,452.00	5,724.80	6,010.40	6,311.20	6,627.20	11,852.65	12,445.72	13,066.61	13,720.55
1628	69.85	73.35	77.01	80.86	84.91	5,588.00	5,868.00	6,160.80	6,468.80	6,792.80	12,148.31	12,757.03	13,393.58	14,063.17

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7,770.75
7,965.54
8,163.80
8,369.03
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9,468.20
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10,450.85
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11,536.11
11,824.82
12,120.48
12,423.11
12,732.68
13,050.96
13,377.93
13,711.85
14,054.48
14,407.53
14,767.55

Percentage Increase 3.0%

**CITY OF MODESTO  
SCHEDULE OF SALARY RANGES IN CITY SERVICE FOR FY 22/23  
EFFECTIVE: June 21, 2022**

**UNREPRESENTED POLICE CAPTAINS  
HOURLY**

MONTHLY = 2.174

BY-WEEKLY

	A	B	C	D	E	A	B	C	D	E	A	B	C	D
1601	36.93	38.78	40.72	42.76	44.89	2,954.04	3,102.40	3,257.60	3,420.80	3,591.20	6,422.08	6,744.62	7,082.02	7,436.82
1602	37.86	39.75	41.74	43.82	46.02	3,028.80	3,180.00	3,339.20	3,505.60	3,681.60	6,584.61	6,913.32	7,259.42	7,621.17
1603	38.80	40.74	42.78	44.92	47.17	3,104.00	3,259.20	3,422.40	3,593.60	3,773.60	6,748.10	7,085.50	7,440.30	7,812.49
1604	39.77	41.76	43.85	46.04	48.35	3,181.60	3,340.80	3,508.00	3,683.20	3,868.00	6,916.80	7,262.90	7,626.39	8,007.28
1605	40.77	42.81	44.95	47.19	49.55	3,261.60	3,424.80	3,596.00	3,775.20	3,964.00	7,090.72	7,445.52	7,817.70	8,207.28
1606	41.79	43.88	46.07	48.37	50.79	3,343.20	3,510.40	3,685.60	3,869.60	4,063.20	7,268.12	7,631.61	8,012.49	8,412.51
1607	42.83	44.97	47.22	49.58	52.06	3,426.40	3,597.60	3,777.60	3,966.40	4,164.80	7,448.99	7,821.18	8,212.50	8,622.95
1608	43.90	46.10	48.40	50.82	53.36	3,512.00	3,688.00	3,872.00	4,065.60	4,268.80	7,635.09	8,017.71	8,417.73	8,838.61
1609	45.00	47.25	49.61	52.09	54.70	3,600.00	3,780.00	3,968.80	4,167.20	4,376.00	7,826.40	8,217.72	8,628.17	9,059.49
1610	46.13	48.43	50.85	53.40	56.06	3,690.40	3,874.40	4,068.00	4,272.00	4,484.80	8,022.93	8,422.95	8,843.83	9,287.33
1611	47.28	49.64	52.12	54.73	57.47	3,782.40	3,971.20	4,169.60	4,378.40	4,597.60	8,222.94	8,633.39	9,064.71	9,518.64
1612	48.46	50.88	53.43	56.10	58.90	3,876.80	4,070.40	4,274.40	4,488.00	4,712.00	8,428.16	8,849.05	9,292.55	9,756.91
1613	49.67	52.16	54.76	57.50	60.38	3,973.60	4,172.80	4,380.80	4,600.00	4,830.40	8,638.61	9,071.67	9,523.86	10,000.40
1614	50.91	53.46	56.13	58.94	61.88	4,072.80	4,276.80	4,490.40	4,715.20	4,950.40	8,854.27	9,297.76	9,762.13	10,250.84
1615	52.19	54.80	57.53	60.41	63.43	4,175.20	4,384.00	4,602.40	4,832.80	5,074.40	9,076.88	9,530.82	10,005.62	10,506.51
1616	53.49	56.16	58.97	61.92	65.02	4,279.20	4,492.80	4,717.60	4,953.60	5,201.60	9,302.98	9,767.35	10,256.06	10,769.13
1617	54.83	57.57	60.45	63.47	66.64	4,386.40	4,605.60	4,836.00	5,077.60	5,331.20	9,536.03	10,012.57	10,513.46	11,038.70
1618	56.20	59.01	61.96	65.06	68.31	4,496.00	4,720.80	4,956.80	5,204.80	5,464.80	9,774.30	10,263.02	10,776.08	11,315.24
1619	57.60	60.48	63.51	66.68	70.02	4,608.00	4,838.40	5,080.80	5,334.40	5,601.60	10,017.79	10,518.68	11,045.66	11,596.99
1620	59.04	62.00	65.09	68.35	71.77	4,723.20	4,960.00	5,207.20	5,468.00	5,741.60	10,268.24	10,783.04	11,320.45	11,887.43
1621	60.52	63.54	66.72	70.06	73.56	4,841.60	5,083.20	5,337.60	5,604.80	5,884.80	10,525.64	11,050.88	11,603.94	12,184.84
1622	62.03	65.13	68.39	71.81	75.40	4,962.40	5,210.40	5,471.20	5,744.80	6,032.00	10,788.26	11,327.41	11,894.39	12,489.20
1623	63.58	66.76	70.10	73.60	77.28	5,086.40	5,340.80	5,608.00	5,888.00	6,182.40	11,057.83	11,610.90	12,191.79	12,800.51
1624	65.17	68.43	71.85	75.44	79.22	5,213.60	5,474.40	5,748.00	6,035.20	6,337.60	11,334.37	11,901.35	12,496.15	13,120.52
1625	66.80	70.14	73.65	77.33	81.20	5,344.00	5,611.20	5,892.00	6,186.40	6,496.00	11,617.86	12,198.75	12,809.21	13,449.23
1626	68.47	71.89	75.49	79.26	83.23	5,477.60	5,751.20	6,039.20	6,340.80	6,658.40	11,908.30	12,503.11	13,129.22	13,784.90
1627	70.18	73.69	77.38	81.24	85.31	5,614.40	5,895.20	6,190.40	6,499.20	6,824.80	12,205.71	12,816.16	13,457.93	14,129.26
1628	71.94	75.53	79.31	83.28	87.44	5,755.20	6,042.40	6,344.80	6,662.40	6,995.20	12,511.80	13,136.18	13,793.60	14,484.06

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9,749.96
9,995.18
10,243.89
10,501.29
10,762.17
11,031.75
11,308.28
11,590.03
11,880.48
12,177.88
12,482.24
12,793.56
13,113.57
13,440.54
13,777.94
14,122.30
14,475.36
14,837.12
15,207.56

**CITY OF MODESTO**  
**SCHEDULE OF SALARY RANGES IN CITY SERVICE FOR FY 20/21**  
**EFFECTIVE: June 23, 2020**

**Sworn Executive Management**

		HOURLY		Bi-weekly		Monthly	
1505		41.07	51.34	3,285.29	4,107.20	7,142.22	8,929.05
1506		42.10	52.62	3,368.00	4,209.60	7,322.03	9,151.67
1507		43.15	53.94	3,452.00	4,315.20	7,504.65	9,381.24
1508		44.23	55.28	3,538.40	4,422.40	7,692.48	9,614.30
1509		45.33	56.67	3,626.40	4,533.60	7,883.79	9,856.05
1510		46.47	58.08	3,717.60	4,646.40	8,082.06	10,101.27
1511		47.63	59.54	3,810.40	4,763.20	8,283.81	10,355.20
1512		48.82	61.02	3,905.60	4,881.60	8,490.77	10,612.60
1513		50.04	62.55	4,003.20	5,004.00	8,702.96	10,878.70
1514		51.29	64.11	4,103.20	5,128.80	8,920.36	11,150.01
1515		52.57	65.72	4,205.60	5,257.60	9,142.97	11,430.02
1516		53.89	67.36	4,311.20	5,388.80	9,372.55	11,715.25
1517		55.23	69.04	4,418.40	5,523.20	9,605.60	12,007.44
1518		56.62	70.77	4,529.60	5,661.60	9,847.35	12,308.32
1519		58.03	72.54	4,642.40	5,803.20	10,092.58	12,616.16
1520		59.48	74.35	4,758.40	5,948.00	10,344.76	12,930.95
1521		60.97	76.21	4,877.60	6,096.80	10,603.90	13,254.44
1522		62.49	78.11	4,999.20	6,248.80	10,868.26	13,584.89
1523		64.05	80.07	5,124.00	6,405.60	11,139.58	13,925.77
1524		65.66	82.07	5,252.80	6,565.60	11,419.59	14,273.61
1525		67.30	84.12	5,384.00	6,729.60	11,704.82	14,630.15
1526		68.98	86.22	5,518.40	6,897.60	11,997.00	14,995.38
1527		70.70	88.38	5,656.00	7,070.40	12,296.14	15,371.05
1528		72.47	90.59	5,797.60	7,247.20	12,603.98	15,755.41
1529		74.28	92.85	5,942.40	7,428.00	12,918.78	16,148.47
1530		76.14	95.17	6,091.20	7,613.60	13,242.27	16,551.97
1531	Chief of Police	78.04	97.55	6,243.20	7,804.00	13,572.72	16,965.90
1532		79.99	99.99	6,399.20	7,999.20	13,911.86	17,390.26
1533		81.99	102.49	6,559.20	8,199.20	14,259.70	17,825.06
1534		84.04	105.05	6,723.20	8,404.00	14,616.24	18,270.30
1535		86.14	107.68	6,891.20	8,614.40	14,981.47	18,727.71
1536		88.30	110.37	7,064.00	8,829.60	15,357.14	19,195.55
1537		90.50	113.13	7,240.00	9,050.40	15,739.76	19,675.57
1538		92.77	115.96	7,421.60	9,276.80	16,134.56	20,167.76
1539		95.09	118.86	7,607.20	9,508.80	16,538.05	20,672.13
1540		97.46	121.83	7,796.80	9,746.40	16,950.24	21,188.67
1541		99.90	124.87	7,992.00	9,989.60	17,374.61	21,717.39

**CITY OF MODESTO**  
**SCHEDULE OF SALARY RANGES IN CITY SERVICE FOR FY 21/22**  
**EFFECTIVE: June 22, 2021**

**Sworn Executive Management**

		<b>HOURLY</b>		<b>Bi-weekly</b>		<b>Monthly</b>	
1505		42.30	52.88	3,384.17	4,230.40	7,357.18	9,196.89
1506		43.36	54.20	3,468.80	4,336.00	7,541.17	9,426.46
1507		44.45	55.56	3,556.00	4,444.80	7,730.74	9,663.00
1508		45.56	56.95	3,644.80	4,556.00	7,923.80	9,904.74
1509		46.70	58.37	3,736.00	4,669.60	8,122.06	10,151.71
1510		47.87	59.83	3,829.60	4,786.40	8,325.55	10,405.63
1511		49.06	61.33	3,924.80	4,906.40	8,532.52	10,666.51
1512		50.29	62.86	4,023.20	5,028.80	8,746.44	10,932.61
1513		51.55	64.43	4,124.00	5,154.40	8,965.58	11,205.67
1514		52.83	66.04	4,226.40	5,283.20	9,188.19	11,485.68
1515		54.16	67.69	4,332.80	5,415.20	9,419.51	11,772.64
1516		55.51	69.39	4,440.80	5,551.20	9,654.30	12,068.31
1517		56.90	71.12	4,552.00	5,689.60	9,896.05	12,369.19
1518		58.32	72.90	4,665.60	5,832.00	10,143.01	12,678.77
1519		59.78	74.72	4,782.40	5,977.60	10,396.94	12,995.30
1520		61.27	76.59	4,901.60	6,127.20	10,656.08	13,320.53
1521		62.80	78.50	5,024.00	6,280.00	10,922.18	13,652.72
1522		64.37	80.46	5,149.60	6,436.80	11,195.23	13,993.60
1523		65.98	82.48	5,278.40	6,598.40	11,475.24	14,344.92
1524		67.63	84.54	5,410.40	6,763.20	11,762.21	14,703.20
1525		69.32	86.65	5,545.60	6,932.00	12,056.13	15,070.17
1526		71.05	88.82	5,684.00	7,105.60	12,357.02	15,447.57
1527		72.83	91.04	5,826.40	7,283.20	12,666.59	15,833.68
1528		74.65	93.31	5,972.00	7,464.80	12,983.13	16,228.48
1529		76.52	95.65	6,121.60	7,652.00	13,308.36	16,635.45
1530		78.43	98.04	6,274.40	7,843.20	13,640.55	17,051.12
1531	Chief of Police	80.39	100.49	6,431.20	8,039.20	13,981.43	17,477.22
1532		82.40	103.00	6,592.00	8,240.00	14,331.01	17,913.76
1533		84.46	105.57	6,756.80	8,445.60	14,689.28	18,360.73
1534		86.57	108.21	6,925.60	8,656.80	15,056.25	18,819.88
1535		88.74	110.92	7,099.20	8,873.60	15,433.66	19,291.21
1536		90.95	113.69	7,276.00	9,095.20	15,818.02	19,772.96
1537		93.23	116.53	7,458.40	9,322.40	16,214.56	20,266.90
1538		95.56	119.45	7,644.80	9,556.00	16,619.80	20,774.74
1539		97.95	122.43	7,836.00	9,794.40	17,035.46	21,293.03
1540		100.40	125.49	8,032.00	10,039.20	17,461.57	21,825.22
1541		102.91	128.63	8,232.80	10,290.40	17,898.11	22,371.33

**CITY OF MODESTO**  
**SCHEDULE OF SALARY RANGES IN CITY SERVICE FOR FY 22/23**  
**EFFECTIVE: June 21, 2022**

Exhibit "29"

**Sworn Executive Management**

		<b>HOURLY</b>		<b>Bi-weekly</b>		<b>Monthly</b>	
1505		43.57	54.47	3,485.52	4,357.60	7,577.52	9,473.42
1506		44.66	55.83	3,572.80	4,466.40	7,767.27	9,709.95
1507		45.78	57.22	3,662.40	4,577.60	7,962.06	9,951.70
1508		46.92	58.65	3,753.60	4,692.00	8,160.33	10,200.41
1509		48.10	60.12	3,848.00	4,809.60	8,365.55	10,456.07
1510		49.30	61.62	3,944.00	4,929.60	8,574.26	10,716.95
1511		50.53	63.16	4,042.40	5,052.80	8,788.18	10,984.79
1512		51.79	64.74	4,143.20	5,179.20	9,007.32	11,259.58
1513		53.09	66.36	4,247.20	5,308.80	9,233.41	11,541.33
1514		54.42	68.02	4,353.60	5,441.60	9,464.73	11,830.04
1515		55.78	69.72	4,462.40	5,577.60	9,701.26	12,125.70
1516		57.17	71.46	4,573.60	5,716.80	9,943.01	12,428.32
1517		58.60	73.25	4,688.00	5,860.00	10,191.71	12,739.64
1518		60.07	75.08	4,805.60	6,006.40	10,447.37	13,057.91
1519		61.57	76.96	4,925.60	6,156.80	10,708.25	13,384.88
1520		63.11	78.88	5,048.80	6,310.40	10,976.09	13,718.81
1521		64.68	80.85	5,174.40	6,468.00	11,249.15	14,061.43
1522		66.30	82.87	5,304.00	6,629.60	11,530.90	14,412.75
1523		67.96	84.95	5,436.80	6,796.00	11,819.60	14,774.50
1524		69.66	87.07	5,572.80	6,965.60	12,115.27	15,143.21
1525		71.40	89.25	5,712.00	7,140.00	12,417.89	15,522.36
1526		73.18	91.48	5,854.40	7,318.40	12,727.47	15,910.20
1527		75.01	93.76	6,000.80	7,500.80	13,045.74	16,306.74
1528		76.89	96.11	6,151.20	7,688.80	13,372.71	16,715.45
1529		78.81	98.51	6,304.80	7,880.80	13,706.64	17,132.86
1530		80.78	100.97	6,462.40	8,077.60	14,049.26	17,560.70
1531	Chief of Police	82.80	103.50	6,624.00	8,280.00	14,400.58	18,000.72
1532		84.87	106.08	6,789.60	8,486.40	14,760.59	18,449.43
1533		86.99	108.74	6,959.20	8,699.20	15,129.30	18,912.06
1534		89.16	111.45	7,132.80	8,916.00	15,506.71	19,383.38
1535		91.39	114.24	7,311.20	9,139.20	15,894.55	19,868.62
1536		93.68	117.10	7,494.40	9,368.00	16,292.83	20,366.03
1537		96.02	120.02	7,681.60	9,601.60	16,699.80	20,873.88
1538		98.42	123.02	7,873.60	9,841.60	17,117.21	21,395.64
1539		100.88	126.10	8,070.40	10,088.00	17,545.05	21,931.31
1540		103.40	129.25	8,272.00	10,340.00	17,983.33	22,479.16
1541		105.99	132.48	8,479.20	10,598.40	18,433.78	23,040.92

CITY OF MODESTO  
CLASS RANGE TABLE  
SWORN **POLICE** EXECUTIVE MANAGEMENT  
Effective **June 27, 2017**

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RANGE	TITLE
<b>1532</b>	<b>Chief of Police</b>

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Exhibit "30"

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2022-268**

**RESOLUTION UPDATING BENEFIT OFFERINGS FOR UNREPRESENTED SWORN FIRE MANAGEMENT AND NON-SWORN MANAGEMENT AND CONFIDENTIAL EMPLOYEES, INCLUDING CHARTER OFFICERS AND EXECUTIVES; RESCINDING RESOLUTION NO. 2021-346 AND AUTHORIZING THE CITY MANAGER OR HIS DESIGNEE TO TAKE THE NECESSARY ADMINISTRATIVE ACTION TO IMPLEMENT THE CHANGES**

WHEREAS, on November 26, 2019, by Resolution No 2019-532, Council approved benefit changes to Unrepresented Management and Confidential employees, including Charter Officers and Executives, and

WHEREAS, on September 7, 2021, by Resolution No 2020-346, Council approved benefit changes to Unrepresented Sworn Fire Management employees, and

WHEREAS, the City has historically implemented terms and conditions of employment for Unrepresented Management and Confidential consistent with the terms and conditions of employment covering employees in the Modesto Confidential and Management Association (MCMA) bargaining unit, and

WHEREAS, the City has historically implemented terms and conditions of employment for Unrepresented Sworn Fire employees consistent with the terms and conditions of employment covering employees in the Modesto City Fire Fighters Association (MCFFA) bargaining unit.

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

SECTION 1. PROBATIONARY PERIOD. All original and promotional appointments to positions in the Classified Service shall be tentative and subject to a probationary period of one year from the date of appointment to the position. The

purpose of the probationary period is to train, observe and evaluate the employee on conduct, performance, attitude, adaptability and job knowledge.

Time spent on any leave of absence, or time during which an employee is unable to perform the full range of duties due to injury or illness, whether or not job-related, shall not be considered as part of any probationary period, and such time will be added to the probationary period. Any further extension of probation will only be upon mutual agreement. During the probationary period an employee may be released at any time without right of appeal. Written notice of release shall be furnished to the probationer. An employee released during or at the conclusion of probation following a promotion, shall be reinstated to the position previously held, at the former salary step, except if the reasons for release are cause for dismissal.

**SECTION 2. COMPENSATORY TIME OFF CAP.** Management and Confidential employees who are overtime-eligible shall be paid quarterly for all CTO over their established cap. For employees hired on or after December 6, 2005, the CTO cap shall be 100 hours. For employees hired before December 6, 2005, the cap shall be 160 hours.

**SECTION 3. HOLIDAY CAP.** Holiday time for unrepresented non-sworn employees may accrue up to a maximum of 40 hours. When the employee reaches the 40-hour maximum, additional holiday time shall be compensated in cash at straight time rates on a quarterly basis.

**SECTION 4. MANAGEMENT LEAVE.** Commencing January 1, 2012, management employees in exempt regular positions shall be advanced 80 hours of Management Leave (Fire Battalion Chiefs on a 56-hour schedule shall be advanced 112

hours) in January of each calendar year to be taken at the discretion of the employee and upon approval of City Manager, or designee, and shall be prorated for less than full-time employees. Management Leave will be forfeited if not used by the last pay period ending in December. An exempt employee hired after Management Leave has been advanced shall be eligible for a pro-rated portion of Leave. In the event of separation from City employment of any person who has taken Management Leave prior to the time all of said leave is earned, the employee shall be required to make full restitution to the City for that portion of leave taken but remaining unearned on the date of termination of employment. Employees separating from City service will be paid for earned Management Leave credit.

SECTION 5. MANAGEMENT LEAVE ANNUAL CASHOUT. The maximum number of hours available for cash out each December shall be 40 hours annually for Management employees. All employees may cash out Management Leave once annually during the pay period in which December 1 falls.

Effective December 2007, the maximum annual cash out shall be 80 hours for Executives and Charter Officers, and 60 hours for Assistant Police Chief, Police Captains, Fire Battalion Chiefs, Fire Deputy Chiefs, Deputy Directors, Assistant City Attorney and Deputy City Attorney I/II/III/Senior. For Fire Battalion Chiefs on a 56-hour schedule, the maximum cash out shall be 84 hours.

SECTION 6. MEDICAL LEAVES OF ABSENCE. Effective December 6, 2005, employees requesting an Authorized Medical Leave of Absence without pay, due to a medical incapacity to perform the duties of their position, must provide written medical verification of a long-term disability, illness or injury.

SECTION 7. CATASTROPHIC LEAVE. Effective December 6, 2005,

employees requesting Catastrophic Leave donations must provide a written medical verification of long-term illness or injury, or verification of a family member's illness or injury.

SECTION 8. NEGATIVE VACATION. Effective March 7, 2006, use of negative vacation will be permitted only for extenuating circumstances and will require the approval of the City Manager, or designee.

SECTION 9. LEAVE CASHOUTS FOR SWORN FIRE MANAGEMENT EMPLOYEES. Sworn Fire Management employees in the classifications of Fire Battalion Chief, Fire Deputy Chief and Fire Chief working a 40-hour schedule shall be afforded the opportunity to cash out up to 61 hours of vacation leave per calendar year (at straight time rates) and up to 88 hours of holiday leave per calendar year (at time and one-half), effective July 1, 2003. Employees in the classification of Fire Battalion Chief working a 56-hour schedule shall be afforded the opportunity to cash out up to 72 hours of vacation leave per calendar year (at straight time rates) effective June 20, 2000, and up to 132 hours of holiday leave per calendar year (at time and one-half). Holiday leave may not be carried over year- to-year regardless of the schedule worked.

SECTION 10. SICK LEAVE. Non-sworn employees hired on or before December 31, 2010 shall have all accrued sick time transferred to a grandfathered sick leave bank effective the pay period ending October 22, 2012. Sworn employees hired on or before December 31, 2010 shall have all accrued sick time transferred to a grandfathered sick leave bank effective pay period ending August 25, 2014. For employees hired on or before December 31, 2010 and who promoted to an unrepresented management classification, employee's grandfathered accrued balance and regular sick accrued balance shall follow

the employee. Employees who promote from MCFFA shall have their sick leave balance as of promotion date split between grandfathered sick leave and regular sick leave as follows:

- Grandfathered sick bank - Eligible for sick leave balance on the books as of September 8, 2015, reduced by hours previously converted to Deferred Compensation, and up to the amount of hours in employee's sick leave bank upon promotion.
- Regular sick bank - remaining sick leave balance as of promotion date not grandfathered. When taking sick leave, employees with grandfathered sick leave banks shall utilize new sick leave accrued hours prior to utilizing hours from the grandfathered bank.

For the term of this contract, the Incentive Program allows employees to deposit the value of twenty-four (24) hours of regular sick leave (36 hours for employees in the classification of Fire Battalion Chief working a 56-hour schedule) into a Health Savings Account (HSA) or Flexible Spending Account (FSA), if eligible. If not eligible, employees may elect to deposit into a Deferred Compensation Account. Amount is deposited at the first pay period in December annually. To be eligible, members must meet the following requirements: Must have a balance of no less than 240 hours of regular sick leave (360 hours for employees in the classification of Fire Battalion Chief working a 56-hour schedule) for the calendar year. Sick leave usage for the calendar year must not exceed three days based on work schedule at time of usage (36 hours for employees in the classification of Fire Battalion Chief working a 56-hour schedule).

**SECTION 11. SICK LEAVE CASHOUT FOR SWORN FIRE MANAGEMENT EMPLOYEES.** Sworn Fire management employees who leave City service in good standing (other than retirement) after five (5) years of continuous service, shall be paid the

first twenty- two hundred (2,200) hours of their current unused grandfathered sick leave, reduced by hours previously converted to Deferred Compensation, as follows: (1) Ninety (90%) percent of sick leave hours as of the date of the employee's initial promotion to a management classification shall be paid out at the current regular rate of pay (top step) for Fire Captain, and (2) In addition, twenty-five (25%) percent of the remaining sick leave hours accrued after promotion to a management classification shall be paid out at the employee's then current regular rate of pay.

SECTION 12. PROMOTION. For employees promoted on or after November 17, 2015, prior to their promotion to an unrepresented management classification, all compensatory time off (CTO) and grandfathered compensatory time off (GCTO) shall be compensated in cash at the employee's then current regular rate of pay.

SECTION 13. MASTERS DEGREE INCENTIVE PAY. Effective November 26, 2019, employees who possess a Master's Degree or Juris Doctor from an accredited institution, shall be granted two- and one-half percent (2.5%) Masters Pay, subject to criteria as established by the City. Effective June 25, 2019, for Unrepresented Sworn Police employees who possess a Master's Degree or who have obtained their certificate from either Command College or the Federal Bureau of Investigations National Academy shall be granted four percent (4.0%) Masters Pay.

SECTION 14. 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 15. VEHICLE ALLOWANCE. Per Resolution No. 2001-271 effective July 1, 2001, the vehicle allowance for Executives and Charter Officers who receive an allowance, shall be \$400/month, and the City Manager is authorized to grant Deputy Directors either an assigned City vehicle or a vehicle allowance in the amount of \$300/month. The City Manager is also authorized to grant selected Management employees a vehicle allowance of \$100-\$200/month based on Department Director recommendation and an annual justification relating to extensive use of a personal vehicle while conducting City business. Effective May 27, 2008, per Resolution 2008-305, the vehicle allowance for Charter Officers is increased to a maximum of \$500/month.

SECTION 16. 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>Allowance</u>
Sworn Police Management	February 1, 2015	\$101.67
Sworn Fire Management	April 16, 2019	\$105.00

SECTION 17. POST CERTIFICATION PAY. Effective March 7, 2017, Police Captains who provide evidence they have a Supervisory POST Certificate shall be eligible for an additional two percent (2.0%) certification pay for a total of ten percent (10%). Effective March 7, 2017, Police Captains who provide evidence they have a Management POST Certificate shall be eligible for ten percent (10%) Management POST Certificate pay. Effective January 10, 2016, Police Chief shall be eligible for an additional ten percent (10.0%) Executive POST pay. These amounts are not cumulative and Captains receiving

Management POST pay shall not also receive Supervisory POST pay. The maximum allowable POST pay is ten percent (10.0%).

**SECTION 18. BONUS PAY FOR UNREPRESENTED POLICE**

**MANAGEMENT.** City shall pay one thousand dollars (\$1,000) to Sworn Police Management as a retention bonus to be paid out in the second pay period of November each year for the term of the contract.

**SECTION 19. HAZARDOUS MATERIALS CERTIFICATION PAY.** Effective July 1, 2003, one (1) Fire Department Battalion Chief or Fire Deputy Chief shall be authorized five percent (5%) Haz Mat Pay, when certified as a Hazardous Materials Specialist and assigned to administer the City of Modesto's participation in the Regional Hazardous Materials Response Team. This pay replaced the annual Haz Mat Stipend.

**SECTION 20. ALS PARAMEDIC PAY.** Effective July 14, 2015, one (1) Fire Department Battalion Chief or Fire Deputy Chief shall be authorized ten percent (10%) ALS Paramedic pay, when assigned to the ALS Paramedic Program and have the required California State Paramedic License and all additional local required ALS certifications.

**SECTION 21. FIRE CHIEF OFFICER SHIFT STIPEND.** Effective December 2, 2014, Fire Battalion Chiefs and Fire Deputy Chiefs assigned to work extra shifts in order to maintain a consistent staffing of two (2) Battalion Chiefs to the extent possible, may receive a stipend of one thousand five hundred dollars (\$1,500) per 24-hour shift. Criteria for assignment to extra shifts with the stipend shall be at the discretion of the Fire Chief, who shall also determine when staffing at the level of one Battalion Chief is acceptable. The Fire Chief shall annually determine the maximum number of assignments available for stipend, subject to funds budgeted and the needs of the City. As FLSA Exempt

management employees, Fire Battalion Chiefs and Fire Deputy Chiefs may be required to work both emergency and non-emergency assignments without additional compensation.

SECTION 22. ASSIGNMENT PAY. Effective September 7, 2021, the Fire Chief may appoint an employee currently employed by the Fire Department in the classification of Fire Deputy Chief to the assignment of Fire Assistant Chief and shall be paid ten percent (10%) Assignment Pay. Such appointment may be made without competitive examination and shall continue at the will and pleasure of the Fire Chief.

The Fire Chief may end the assignment at any time and such employee shall return to an assignment as Fire Deputy Chief. Effective September 7, 2021, the Fire Chief may appoint an employee currently employed by the Fire Department in the classification of Fire Battalion Chief to the assignment of Fire Division Chief and shall be paid five percent (5%) Assignment Pay. Such appointment may be made without competitive examination and shall continue at the will and pleasure of the Fire Chief. The Fire Chief may end the assignment at any time and such employee shall return to an assignment as Fire Battalion Chief.

SECTION 23. MUTUAL AID ASSIGNMENT. Sworn Fire Management employees in the classification of Fire Battalion Chief and Fire Deputy Chief shall receive a stipend when assigned to fill Strike Team and Task Force Leader assignments. Fire Battalion Chiefs assigned as Strike Team or Task Force Leader or Strike Team or Task Force Leader Trainee shall receive a stipend of \$1500 for a 24-hour period. Fire Deputy Chiefs assigned as Strike Team or Task Force Leader or Strike Team or Task Force Leader Trainee shall receive a stipend of \$1500 for a 24-hour period subject to the following conditions:

1. The assignment results from a request through the California Office of Emergency Services.
2. The assignment is subject to reimbursement through the "Cooperative Agreement for Local Government Fire Suppression."
3. Regularly scheduled work hours are not included and partial periods are pro-rated to the nearest hour.

The City Manager is authorized to adjust the stipend amount, from time to time, consistent with increases in overall Fire Management salaries and reimbursement rates.

SECTION 24. DEFERRED COMPENSATION 457 PLAN. The CITY shall provide access to a 457 deferred compensation program authorized by the City Council for the voluntary participation of City employees. In addition, the CITY shall match on behalf of a participating employee in a regular position, one and one-half percent (1.5%) of an employee's regular rate of pay on a bi-weekly basis; provided, the employee is contributing at least one and one-half percent (1.5%). For such employees who have been continuously employed by the CITY for nine (9) or more years, the CITY shall contribute two and one-half percent (2.5%); provided the employee is contributing at least two and one-half percent (2.5%). Effective January 1, 2006, this increase in the City's contribution shall be effective with the first pay period to begin in the month following completion of nine (9) years of service, provided that the employee has completed any required documents.

SECTION 25. DEFERRED COMPENSATION 401 (a) MONEY PURCHASE PLANS. The 401(a) Money Purchase Plans shall provide for a City-paid contribution and equal mandatory employee contribution, effective January 1, 2006, of 5% for Charter

Officers, 3% for Executives other than Charter Officers, and 2% for all other unrepresented Management and Confidential employees.

SECTION 26. HEALTH, DENTAL AND VISION BENEFITS. The City's contribution to health, dental and vision benefits for Unrepresented Management and Confidential employees, including Charter Officers and Executives and Unrepresented Sworn Fire and Police Management and, shall be a three-tier system as follows and the City contribution (excluding opt out) shall increase by two (2) percent annually as follows:

	Beginning July 1, 2019	2020	2021	2022	2023
Opt-out of City Medical Coverage	\$450.00	\$450.00	\$450.00	\$450.00	\$450.00
Employee only	\$622.00	\$634.00	\$648.00	\$660.00	\$673.00
Employee plus 1	\$1112.00	\$1134.00	\$1157.00	\$1180.00	\$1,204.00
Employee plus family	\$1572.00	\$1603.00	\$1635.00	\$1668.00	\$1,701.00

The City shall pay in cash any balance remaining from the above listed contributions not needed to pay for the employee's health, dental or vision premiums. Effective July 22, 2008, for employees enrolled in the City- sponsored High Deductible Health Plan, any balance of said contributions shall be directed to the employee's Health Savings Account. Only in the event that an employee does not qualify for enrollment into a Health Savings Account, the City shall pay in cash any balance of the above contribution not needed to pay for the employee's combined premium.

SECTION 27. DOMESTIC PARTNERS. Benefits applicable to spouses shall be extended to registered domestic partners, as required by law.

SECTION 28. RETIREE HEALTH INSURANCE. Employees who retire prior to December 31, 2015, may elect on a one-time basis at retirement to purchase health, dental

and vision insurance under a City-authorized plan and are responsible for all cost.

Non-sworn employees hired on or before December 31, 2010 and who retire from the City prior to October 23, 2012 after five (5) years of continuous service in good standing may, on a one-time basis, exercise the option to have ninety percent (90%) of their unused grandfathered sick leave applied by the City upon retirement to premiums for health, dental and vision insurance plans covered by the CITY at the rate of eight (8) hours equals one month of contribution. Said insurance contribution shall be provided in an amount up to that contributed to active employees' subject to changes in the median priced health HMO plan for active employees, as needed to cover the cost of retiree health, dental and vision premium.

Non-sworn employees hired on or before December 31, 2010 and who retire from the City between October 23, 2012 and December 31, 2014, after five (5) years of continuous service in good standing may, on a one-time basis, exercise the option to have ninety percent (90%) of their unused grandfathered sick leave applied by the City upon retirement to premiums for health, dental and vision insurance plans covered by the CITY at the rate of eight (8) hours equals one month of contribution. Said insurance contribution shall be provided as needed to cover the cost of retiree health, dental and vision premiums up to a monthly rate of \$621 for retiree without dependents and up to \$1,100 for retirees with dependent coverage.

Sworn employees hired on or before December 31, 2010 and who retire from the City prior to January 1, 2015, after five (5) years of continuous service in good standing may, on a one-time basis, exercise the option to have ninety percent (90%) of their unused grandfathered sick leave applied by the City upon retirement to premiums for health,

dental and vision insurance plans covered by the CITY at a rate of eight (8) hours equals one month of contribution (employees promoted on or after December 30, 2014 into a Fire Unrepresented position on a 56-hour schedule, shall have hours at retirement applied at a rate of twelve (12) hours equals one month of contribution). Said insurance shall be provided in an amount up to that contributed to active employees' subject to changes in the median priced health HMO plan for active employees, as needed to cover the cost of retiree health, dental and vision premium.

For all Non-Sworn and Sworn employees hired on or before December 31, 2010 who retire from the City on or after January 1, 2015, the City will no longer offer retiree medical plans through City's group plans effective December 31, 2015, however, retirees may elect on a one-time basis at retirement the option to purchase and maintain City's dental and vision plans at retiree's cost. For these employees who retire after five (5) continuous years of service in good standing may, on a one time basis, have ninety (90%) percent of their unused grandfathered sick leave converted to the City sponsored defined contribution retiree medical benefit plan at the rate of eight (8) hours equals one month of contribution (Fire Unrepresented position on a 56-hour schedule, shall have hours at retirement applied at a rate of twelve (12) hours equals one month of contribution) to purchase medical insurance. For each eight hours (or twelve hours) converted to the retiree medical program, the recipient shall be provided a monthly contribution under one of the following schedules:

<u>Non-Medicare Eligible Recipient</u>	<u>Medicare Eligible Recipient</u>
Retiree Only = \$500	Retiree Only = \$250
Retiree +1 Dep = \$1,000	Retiree +1 Dep = \$500
Retiree + Family = \$1,000	Retiree + Family = \$500

### Combined contributions for Retirees

1 Non-Medicare + 1 Medicare coverage = \$750

Retiree only contribution for eligible recipients is allowable regardless of where the retiree acquires authorized and legitimate medical insurance coverage (i.e. through State Exchange, through individual insurance company, through a current employer, or through spouse employer). Retiree shall not be eligible to receive a contribution for dependent, spouse, or registered domestic partner under the Retiree + 1 or Retiree + Family levels if retiree's dependent, spouse, or registered domestic partner has medical insurance coverage through their current employer, is covered under Retiree's current employer, or if Retiree does not purchase individual insurance for dependent. Upon retirement only, the City shall transfer contributions based on eligibility above into the City's sponsored Retiree Health Reimbursement Arrangement (HRA) for the individual. Employees will not be eligible for these contributions should they separate from City service prior to retirement.

Contributions to eligible retirees will be made as follows: Upon Retirement - initial contributions will be made for the months following loss of coverage with City through either December 31st or June 30th, whichever date is earlier. Contributions will be deposited no later than 30 days after retirement date.

Ongoing Contribution - a semi-annual year's worth of contributions will be made on a semi-annual basis no later than Jan 31st (for months January - June) and July 31st (for months July - December) until exhaustion of sick leave conversion. To receive the semi-annual contribution, the retiree must provide the City with proof and cost of

coverage by December 15th each year to receive a contribution for the following calendar year.

Failure to provide proof of coverage will result in the retiree losing a City contribution for that calendar year; however, if the retiree provides proof of coverage before June 15th, the retiree will be eligible for the July contribution. Lose of contribution will not result in a reduction to the number of months the retiree is eligible to receive contributions in the future. If retiree has a status change during any calendar year that would change the monthly contribution, such as a marriage, divorce, death, birth, spouse or dependent loss of coverage, the City will reconcile the new amount the retiree is eligible for with the following semi-annual contribution. The change in status is presumed effective the 1st of the month following the month when the retiree provided notice to the City of the change in status. For example, if the retiree's status changes from retiree only to retiree + 1 on November 15, the City will provide an additional \$500 along with the total semi-annual contribution for the following calendar year to compensate the retiree for the change in status for the month of December in the previous calendar year. If the retiree's change in status results in monies owed to the City, the City will recoup the amount owed by deducting it from the following semi-annual contribution. However, in the event of a death of the retiree receiving a contribution for the retiree only level during the calendar year in which the contribution was already received, any remaining months of contribution will be deleted for subsequent calendar years, but the City will not endeavor to seek payments already made for the months following the retiree's death. In the event of the death of retiree participating in the contribution program, surviving qualified spouse will be eligible to receive a contribution for the following calendar year if the retiree

would have been eligible to receive a contribution. If eligible, the contribution will be consistent with the eligibility criteria set above and continue until the exhaustion of the deceased retiree's sick leave bank, upon the death of the surviving spouse, upon the spouse and/or dependents coverage for other insurance through an employer, or upon voluntarily election to not continue with the contribution program.

For employees hired on or before December 31, 2010, the City shall contribute to a Defined Contribution retiree medical benefit plan for each eligible employee in the form of a deposit into a Health Reimbursement Arrangement (HRA). For non-sworn employees, effective July 2, 2013, the City shall contribute \$25.00 per month. For sworn employees, effective August 26, 2014 the City shall contribute \$25.00 per month. For a full-time employee, this equates to a maximum of \$300 per year. Employees in regular positions budgeted less than eighty (80) hours per pay period or job-shared positions, shall receive a pro-rated amount per month. Beginning January 1, 2015, the defined City contribution for non-sworn and sworn employees shall increase annually through January 1, 2019, by an additional \$10 per year, per employee each January. The defined City contribution shall be a maximum contribution of \$75 per month by January 2019. For all employees regardless of date of hire by January 1, 2019, the City will increase the City contribution to the City HRA by an additional ten dollars (\$10.00) monthly per employee effective January 1, 2017; followed by an additional increase of ten dollars (\$10.00) monthly per employee effective January 1, 2018; and followed by an additional increase of ten dollars (\$10.00) monthly per employee effective January 1, 2019. The contribution effective January 1, 2019 will be \$100.

For all unrepresented employees (sworn and non-sworn) hired on or after January

1, 2011, the City shall contribute to a Defined Contribution retiree medical benefit plan for each eligible employee in the form of a deposit into a Health Reimbursement Arrangement (HRA) account. An employee is eligible to receive a City HRA contribution upon completion of two full years. If an employee separates employment before meeting eligibility requirement, the employee shall receive no benefit. On the first pay period following completion of two full years of continuous City service, the CITY shall deposit \$2,400 into an HRA account established in the employee's name. Employees in regular positions budgeted less than eighty (80) hours per pay period or job-shared positions, shall receive a pro-rated lump sum contribution based on hours worked. After the initial contribution is made, the City shall contribute \$100 per month for each eligible full-time employee.

Employees in regular positions budgeted less than eighty (80) hours per pay period or job-shared positions, shall receive a pro-rated amount per month. Employees hired on or after January 1, 2011 and subject to this defined contribution plan shall not be eligible for any sick leave conversion towards retiree medical premiums of any sort. The City's contribution under this section represents the entire contribution towards employee retiree medical.

**SECTION 29. PAYCHECK ADVICES.** All employees who have direct deposit will no longer receive hard-copy pay advices. Employees will now be able to utilize the Employee self-service tool available via Oracle under the CoM Employee Self Service. Employees are responsible to view their pay advices, including their annual W- 2s. Employees have the option to elect to be paid via direct deposit or a debit card. Pay advices are available for viewing anytime on payday. Current and historical pay slips can

be printed utilizing city computer workstation.

SECTION 30. EDUCATIONAL INCENTIVE PAY. Effective June 22, 2022, Sworn Fire Management employees in the classifications of Fire Battalion Chief, Fire Deputy Chief and Fire Chief shall be eligible for Educational Incentive Pay for designated certifications or degrees as follows:

1. AA/A 2.5%
2. BA/BS 5.0%

Qualifying certificates and degrees:

1. Associates Degree in Fire Science, Fire Technology, or a related field, OR a Bachelor's Degree in Fire Science, Fire Management, Public Safety Administration or a related field. Fire Chief reserves the right to determine qualifying degrees.

Education incentives are not stackable or cumulative. Employees receive pay for the highest certification or degree earned. Employee is responsible for submitting request for educational incentive. Educational incentive will be effective in the same pay period that verification of education is received by the City from the employee.

SECTION 31. CERTIFICATION INCENTIVE PAY. Effective June 22, 2022, Sworn Fire Management employees in the classifications of Fire Battalion Chief, Fire Deputy Chief and Fire Chief shall be eligible for Educational Incentive Pay for certificates identified in (b) below. Employee is responsible for submitting request for certificate incentive. Certificate incentive will be effective in the same pay period that verification of certificate is received by the City from the employee.

- a) Employees shall receive one half percent (0.5%) for each qualifying

certificate listed below, for up to a maximum of two- and one-half percent (2.5%) certification incentive pay.

b) Qualifying certificates:

1) Certificates below held from the Office of the California State Fire

Marshal or the equivalent California Joint Apprentice Committee Program

shall be eligible for compensation:

Fire Investigator – 1A, 1B, 1C

Fire Inspector (or Prevention) – 1A, 1B, 1C, 1D

Fire Instructor – 1A, 1B, or I, II, III

Fire Command – 1A, 1B, 1C

Fire Management 1

Plans Examiner (or Checker) – 1A, 1B, 1C

Fire & Life Safety Educator – 1A, 1B, 1C

Fire Science or Fire Technology Certificate

Rescue Tech 2

Rope Rescue Technician

Boat Operator

Wildland Firefighter – Equivalent courses in series.

Fire Apparatus Driver/Operator or Engineer or Equivalent (Equivalent to completion of 1A and 1B)

Driver Operator 1A

Driver Operator 1B

Fire Control 5 (ARFF – Aircraft Rescue and Fire Fighting)

Company Officer – 2A, 2B, 2C, 2D, 2E

Fire Marshal – 1A, 1B, 1C, 1D, 1E

Chief Officer – 3A, 3B, 3C, 3D

SECTION 32. LONGEVITY INCENTIVE PAY. Effective June 22, 2022, Sworn Fire Management employees in the classifications of Fire Battalion Chief, Fire Deputy Chief and Fire Chief shall be eligible for Longevity Incentive Pay for the following years of service:

1. 10 years of service 2.0%
2. 15 years of service 3.5%

3. 20 years of service 5.0%

Longevity incentives are not stackable or cumulative. Employees receive pay for the highest years of service for which they qualify.

#### SECTION 33. UNFUNDED LIABILITY.

1. Effective April 16, 2019, each unrepresented Fire Management employee shall contribute one percent (1.0%) of salary to an agreed upon Base as noted in the CalPERS Safety Schedule of Amortization.
2. Effective July 21, 2020, each unrepresented Fire Management employee shall contribute an additional three percent (3.0%) of salary for a total of four percent (4%)
  - a. Effective July 21, 2020 through June 7, 2021, the four (4%) contribution shall be used to fund a portion of the Employer Share of the normal cost versus being contributed to an agreed upon Base on the CalPERS Safety Schedule of Amortization.
  - b. Effective June 8, 2021 the four (4%) contribution shall resume as contributions to an agreed upon base as noted in the CalPERS Safety Schedule of Amortization Bases as Additional Direct Payments to the CalPERS Unfunded Accrued Liability (UAL) and shall continue to until such liability is paid in full. To the extent possible, the City shall insure that any contributions to the Base Account as referenced herein shall be directed to those costs arising specifically related to fire employees.
  - c. Effective June 21, 2022, employees shall receive a two and one-half (2.5%) salary increase pursuant to 2 (b) above, and the employee will

contribute an additional two and half percent (2.5%) for a total of six and half percent (6.5%) as contributions to an agreed upon base as noted in the CalPERS Safety Schedule of Amortization Bases as Additional Direct Payments to the CalPERS Unfunded Accrued Liability (UAL) and shall continue until such liability is paid in full. To the extent possible, the City shall insure that any contributions to the Base Account as referenced herein shall be directed to those costs arising specifically related to fire employees.

- d. In contributing to their statutorily required retirement contributions, PEPRA employees shall not exceed the agreed upon additional contribution levels noted above; sixteen percent (16.0%) for June 2021 and eighteen- and one-half percent (18.5%) for June 2022. During the stated timelines, should the PEPRA contribution exceed the percentages noted above, PEPRA employees shall have their additional contributions to the City's Base account adjusted downward accordingly. The cap of eighteen and one-half percent (18.5%) shall remain in effect from July 1, 2022 through June 30, 2024.
- e. If any other City employee group which has agreed to concessions, salary reductions, furloughs, postponed salary increases or any similar "give back" reversed, the three percent (3.0%) raise diversion noted in 3 (a) above shall immediately cease and shall revert to the employee's three percent (3.0%) base wage increase.

- 3. Effective June 21, 2021, the three percent increase shall resume as

contributions to an agreed upon base as noted in the CalPERS Safety Schedule of Amortization Bases.

4. Effective June 25, 2019, each Unrepresented Sworn Police Management employee shall contribute one- and one-half percent (1.5%) of salary to an agreed upon Base as noted in the CalPERS Safety Schedule of Amortization.

#### SECTION 34. FURLOUGH.

1. Effective the pay period beginning July 7, 2020, and for a total of 24 pay periods, each Unrepresented Sworn Police Management and Unrepresented Non-Sworn Management and Confidential employees, including Charter Officers and Executives shall have 4 (four) unpaid furlough hours deducted from his/her paycheck. This will be accomplished by the employee reporting this deduction in each of the 24 pay periods. Unrepresented Sworn Police Management employees retiring prior to December 31, 2020 will be exempt from payroll deductions, nor receive a furlough bank, provided retirement notice is given before July 3, 2020.
2. On the pay period beginning July 7, 2020 the City shall create for each eligible member a furlough bank of 96 hours.
3. Between July 7, 2020 and December 31, 2021, the Department Director shall ensure that all Sworn Police Management exhaust all hours in the furlough bank in a manner that does not result in an increase in overtime cost due to the vacancy left by the furloughed employee. Furloughs will be scheduled in the same manner as vacation and should not cause an increase in overtime.
4. Between July 7, 2020 and June 7, 2021, the Department Director shall ensure

that all Non-Sworn employees exhaust all hours in the furlough bank in a manner that does not result in an increase in overtime cost due to the vacancy left by the furloughed employee.

5. Non-Sworn employees may elect an increase of voluntary furlough bank of 48 hours to be added to their 96 hours of furlough bank for a total of 144 furlough bank hours. Employees who elect this option will, effective July 7, 2020 for a total of 24 pay periods, have 2 (two) additional unpaid furlough hours deducted from his/her paycheck for a total of 6 (six) unpaid furlough hours.
6. All employees shall record furlough hours on their timesheets only at the time the furlough hours are actually taken as time off.
7. Non-sworn employees shall not work more than forty (40) hours during any workweek within which they take furlough hours.
8. During this designated furlough deduction period through July 7, 2020 through June 7, 2021, the City will continue to report each employee's full base pay rate to CalPERS each pay period.
9. The City has the sole discretion to assign overtime and that employees will not require the City to backfill with overtime to cover furlough hours in order to avoid actual reduction of pay by any employee. However, there may be occasions when overtime would be needed to cover back furlough hours to ensure minimums are maintained at proper levels.
10. If the City revises its revenue estimates and/or receives funding through a federal package that are anticipated to equal or exceed \$147,000,000 for

Fiscal Year 20/21, furloughs will be reviewed and ceased or reduced accordingly. Should such action occur, employees shall only be allowed to utilize furlough hours in proportion to the duration of time that the furlough program was in place, and all additional hours shall be forfeited. City shall cease the furlough payroll deductions effective the pay period following such a determination.

11. Should an employee exhaust furlough leave and separate from the City before earning such leave in proportion with the amount of time the employee worked during the furlough period, the employee will be responsible for reimbursing the City. An employee that separates from the City should attempt to utilize unused furlough bank prior to separation as the employee will not be reimbursed for unused hours. Should an employee use leaves and the City cease the furlough due to circumstances in above, the employee will not be reimbursed for using such leave.
12. For Sworn Police Management, during this designated furlough deduction period between July 7, 2020 through June 7, 2021, the 1.5% payroll deduction for additional contribution to CalPERS, as referenced in Section 31 above, shall be temporarily suspended. Upon conclusion of the furlough period, including if the furlough period terminates early consistent with above, the 1.5% furlough deduction shall resume.
13. For Sworn Police Management, during this designated furlough usage period, the vacation accrual cap shall be temporarily suspended. It is incumbent upon the employees to still utilize their vacation balances and employees will be

required to have their accruals under the cap by October 1, 2022. Any additional extension at the discretion of the Police Chief and City Manager.

#### SECTION 35. LEAVE BANK PURCHASE OPTION.

1. The City shall allow Non-Sworn Unrepresented Management and Confidential employees, including Charter Officers and Executives to independently apply for the leave bank purchase option plan.
2. The allowance is not to be viewed as a precedent or the establishment of a past practice.
3. Eligible employees may elect a leave bank purchase option of 48 hours.
4. The City shall create for each eligible employee an additional leave bank of 48 hours on pay period ending July 4, 2022. All eligible employees must exhaust the purchased leave bank no later than pay period ending June 18, 2023.
5. Two (2) hours of pay will be deducted over 24 pay periods beginning pay period ending July 4, 2022 through pay period ending May 22, 2023.
6. Eligible employees may elect to use leave bank purchase option hours in a minimum of two (2) hour increments.
7. Overtime Exempt employees shall record leave bank purchase option hours on their timesheets only at the time the leave bank purchase option hours are actually taken as time off. Overtime Exempt employees shall not work more than forty (40) hours during any workweek within which they take leave bank purchase option hours.
8. During this designated leave bank purchase option deduction period, the City

will continue to report each employee's full base pay rate to CalPERS. All employees' deductions go to UAL payment by making additional direct payments (ADP).

BE IT FURTHER RESOLVED by the Council of the City of Modesto that Resolution No. 2021-346 is hereby rescinded.

BE IT FURTHER RESOLVED by the Council of the City of Modesto that the Council authorizes the City Manager, or his designee, to take the necessary administrative actions to implement the changes under 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 June, 2022, by Councilmember Ricci, who moved its adoption, which motion being duly seconded by Councilmember Escutia-Braaton, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Escutia-Braaton, Kenoyer, Madrigal, Ricci, Wright, Mayor Zwahlen

NOES: Councilmembers: None

ABSENT: Councilmembers: None

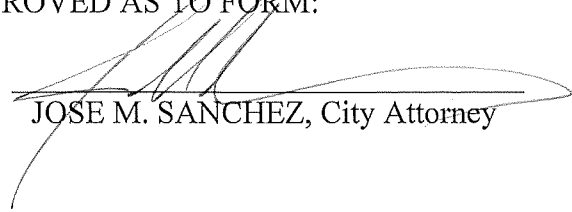
ATTEST:

  
DIANE NAYARES-PEREZ, CMC,  
City Clerk

(SEAL)

APPROVED AS TO FORM:

BY:

  
JOSE M. SANCHEZ, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2022-269**

**RESOLUTION CONTINUING TO AUTHORIZE REMOTE  
TELECONFERENCE MEETINGS OF THE CITY OF MODESTO PURSUANT  
TO ASSEMBLY BILL 361**

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

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

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

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

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

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

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

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

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

WHEREAS, on September 28, 2021, the City Council adopted Resolution No. 2021-370 authorizing remote teleconference meetings pursuant to AB361 (Government Code section 54953(e)); and

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

WHEREAS, the City Council has considered the circumstances of the Governor’s state of emergency proclamation pursuant to Government Code section 8625, which remains active; and

WHEREAS, on March 8, 2022, the County of Stanislaus Board of Supervisors terminated the Declaration of a Local Health Emergency that was issued on March 11, 2020; and

WHEREAS, the Stanislaus County Public Health Services Agency still strongly recommends community members to wear a mask while in “any indoor public space” along with other recommendations intended to promote social distancing measures; and

WHEREAS, the City Council, acting for itself and for the benefit of all of the City’s commissions, committees, and other bodies (collectively referred to as the “Legislative Bodies”), does hereby find that the Legislative Bodies shall continue to conduct their meetings without compliance with Government Code section 54953(b)(3), as authorized by Government Code section 54953(e), and that the Legislative Bodies shall continue to comply with the requirements to provide the public with access to the meetings as prescribed in Government Code section 54953(e)(2) as a consequence of the ongoing state of emergency and the continued social distancing measures required by local officials.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF MODESTO DOES HEREBY RESOLVE AS FOLLOWS:

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

Section 2. Consideration of State of Emergency. The City Council has considered the conditions of the state of emergency declared pursuant to Government Code section 8625, and determined that such emergency conditions continue to be present in the City.

Section 3. Continued Social Distancing Measures by State and Local Officials.

The City Council finds that the County of Stanislaus Health Officer's recommended measures to promote social distancing remain in effect.

Section 4. Remote Teleconference Meetings. The City Council finds that the conditions continue to exist pursuant to Government Code section 54953(e)(3) to allow Legislative Bodies to use teleconferencing to hold public meetings in accordance with Government Code section 54953(e)(2) to ensure members of the public have continued access to safely observe and participate in local government meetings.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 14th day of June, 2022, by Councilmember Wright, who moved its adoption, which motion being duly seconded by Councilmember Kenoyer, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Escutia-Braaton, Kenoyer, Madrigal, Ricci,  
Wright, Mayor Zwahlen

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST:   
DIANE NAYARES-PEREZ, CMC,  
City Clerk

(SEAL)

APPROVED AS TO FORM:

BY:   
JOSE M. SANCHEZ, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2022-270**

**RESOLUTION APPROVING A NO-COST SECOND AMENDMENT TO  
EXTEND THE COMPLETION DATE TO DECEMBER 31, 2022, FOR THE  
CONSTRUCTION ZONE ENHANCED ENFORCEMENT PROGRAM (COZEEP)  
AGREEMENT NO. 19R465000 WITH THE STATE OF CALIFORNIA,  
DEPARTMENT OF HIGHWAY PATROL FOR THE STATE ROUTE 132 WEST  
FREEWAY/EXPRESSWAY PHASE 1 PROJECT, AND AUTHORIZING THE  
CITY MANAGER, OR HIS DESIGNEE TO EXECUTE THE AMENDMENT TO  
AGREEMENT**

WHEREAS, the purpose of the State Route 132 West Freeway/Expressway - Phase 1 Project is to improve regional and interregional circulation, relieve traffic congestion along existing State Route 132 (SR132), and enhance safety and operations for the existing and proposed transportation network; and

WHEREAS, the Phase 1 Project includes construction of an access-controlled, 2-lane expressway (one lane eastbound and one lane westbound) along a new alignment just south of Kansas Avenue starting from the east side of State Route 99 (SR99) at the west end of the Needham Street Bridge, westbound to Dakota Avenue and then along Dakota Avenue to the existing SR132/Maze Boulevard; and

WHEREAS, the Project also includes grade separations at Rosemore Avenue, Carpenter Avenue, Emerald Avenue, and SR99, and improvements to the 5<sup>th</sup> and 6<sup>th</sup> Street connections to the new SR132 expressway and the addition of an auxiliary lane at the northbound SR99 on-ramp at L Street; and

WHEREAS, work occurring within the SR99 right-of-way requires traffic control related services from the California Highway Patrol (CHP); and

WHEREAS, Caltrans required implementation of Construction Zone Enhanced Enforcement Program (COZEEP) for this project; and

WHEREAS, prior to the CHP performing the services required of the COZEEP program an agreement was required; and

WHEREAS, on December 10, 2019, by Resolution No. 2019-542, Council approved Agreement No. 19R465000 committing the City of Modesto to provide a maximum reimbursement amount of \$331,486 to the CHP for all traffic control related services provided to the project during the construction phase of the project, and provided a time frame of said services from November 1, 2019 to December 31, 2021; and

WHEREAS, on September 24, 2019, per Resolution No. 2019-439, Modesto City Council awarded a construction contract to Bay Cities Paving & Grading, and the original construction contract was for 565 working days; and

WHEREAS, Bid Alternates A & B, which were included in the project because funding was available based on the winning bid, added approximately six months to the base bid construction schedule, in addition to a 3-year Plant Establishment Period; and

WHEREAS, construction began in December 2019, and was estimated to be completed in March of 2022, with closeout continuing through June 30, 2022; and

WHEREAS, the original COZEEP Agreement had an end date of December 31, 2021, and as a result a First Amendment to extend the end date of the COZEEP Agreement with CHP was necessary; and

WHEREAS, on October 12, 2021, per Resolution No. 2021-403, Council approved a First Amendment to the Construction Zone Enhanced Enforcement Program (COZEEP) Agreement No. 19R465000 with the State of California, Department of Highway Patrol for the State Route 132 West Freeway/Expressway Phase 1 Project, increasing the agreement amount by \$110,847.50, from \$331,486 for a total not to exceed

amount of \$442,333.50, and also extended the term end date from December 31, 2021 to June 30, 2022; and

WHEREAS, the Project experienced a 100-year storm weather delay, delay due to smoke during the fires of 2021, and delay due to social distancing requirements of the state and county due to the COVID-19 pandemic; and

WHEREAS, additionally the Project will experience a minor delay due to redesign of Carpenter Road to accommodate an enhanced bicycle and pedestrian traffic plan, and redesign of utility access facilities for Modesto Irrigation District; and

WHEREAS, in addition to this extra work, it may be necessary for the Contractor to engage COZEEP services to support minor lane closures required to complete project closeout “punch list“ work; and

WHEREAS, these added COZEEP services can commence when the new highway facilities are opened and in service, which is expected sometime in mid-July; and

WHEREAS, due to the uncertain nature of this work staff recommends the COZEEP agreement be extended to the end of the year; and

WHEREAS, staff recommends approving this no-cost Second Amendment to the Construction Zone Enhanced Enforcement Program (COZEEP) Agreement No. 19R465000 with the State of California, Department of Highway Patrol for the project, to extend the term end date from June 30, 2022 to December 31, 2022.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves a no-cost Second Amendment to extend the completion date to December 31, 2022, for the Construction Zone Enhanced Enforcement Program

(COZEEP) Agreement No. 19R465000 with the State of California, Department of Highway Patrol for the State Route 132 West Freeway/Expressway Phase 1 Project.

BE IT FURTHER RESOLVED, that the City Manager or his designee is hereby authorized to execute the Amendment to Agreement in a form approved by the City Attorney.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 14th day of June, 2022, by Councilmember Wright, who moved its adoption, which motion being duly seconded by Councilmember Kenoyer, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Escutia-Braaton, Kenoyer, Madrigal, Ricci, Wright, Mayor Zwahlen

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST:   
DIANE NAYARES-PEREZ, CMC,  
City Clerk

(SEAL)

APPROVED AS TO FORM:

BY:   
JOSE M. SANCHEZ, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2022-271**

**RESOLUTION APPROVING A FIRST AMENDMENT WITH FERGUSON WATERWORKS FOR THE PURCHASE OF CIRCLE CLAMPS, GASKETS, PIPE COUPLINGS, TAPPING SLEEVES AND SEWER MATERIALS FOR A REVISED ESTIMATED ANNUAL AMOUNT FROM \$340,000 TO \$575,000 AND A TOTAL REVISED AMOUNT NOT TO EXCEED FROM \$1,700,000 TO \$2,405,000 OVER FIVE (5) YEARS, AND AUTHORIZING THE DIRECTOR OF FINANCE OR HER DESIGNEE TO EXECUTE THE AMENDMENT; AND AUTHORIZING THE DIRECTOR OF FINANCE, OR HER DESIGNEE, THE ABILITY TO ADD PARTS BASED ON THE DEPARTMENTS NEEDS, ENSURING THE TOTAL COST DOES NOT EXCEED THE AUTHORIZED AMOUNT**

WHEREAS, the Finance Department, Central Stores Division inventories circle clamps, gaskets, pipe couplings, and tapping sleeves for the Utilities Department, Water and Wastewater Divisions; and

WHEREAS, these items are used in repairing and maintaining city water and sewer lines; and

WHEREAS, on July 14, 2020 by Resolution 2020-306, Council approved a One (1) year purchase agreement with four (4) 1-year extension options; and

WHEREAS, supply chain issues resulting from COVID19, and weather-related manufacturing shutdowns have created an unstable market; and

WHEREAS, the polyvinyl chloride (PVC) market has increased exponentially over the past several years and continues to rise; and

WHEREAS, the cost of fuel has risen over 90% since January 2021; and

WHEREAS, staff continues to monitor supply chain trends on a regular basis, validating market pricing.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approve a first amendment with Ferguson Waterworks for the purchase of

circle clamps, gaskets, pipe couplings tapping sleeves, and sewer materials from an annual estimated amount of \$340,000 to a new annual estimated amount of \$575,000 and a total revised amount not to exceed from \$1,700,000 to \$2,405,000 over five (5) years.

BE IT FUTHER RESOLVED, that the Director of Finance, or her designee, is authorized to execute the amendment.

BE IF FURTHER RESOLVED, that the Director of Finance, or her designee, is authorized the ability to add parts based on the department's needs, ensuring the total cost does not exceed the authorized amount.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 14th day of June, 2022, by Councilmember Wright, who moved its adoption, which motion being duly seconded by Councilmember Kenoyer, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Escutia-Braaton, Kenoyer, Madrigal, Ricci, Wright, Mayor Zwahlen

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST:

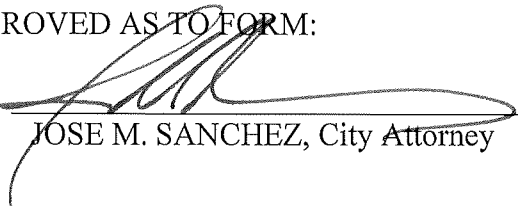


DIANE NAYARES-PEREZ, CMC,  
City Clerk

(SEAL)

APPROVED AS TO FORM:

BY:



JOSE M. SANCHEZ, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2022-272**

**RESOLUTION APPROVING THE AWARD OF BID AND AGREEMENT FOR THE FURNISHING OF PERSONAL PROTECTION EQUIPMENT (PPE) CLEANING, INSPECTION AND REPAIR SERVICES TO SCOTTS PPE RECON INC., LODI, CA FOR THE MODESTO FIRE DEPARTMENT, FOR A TWO-YEAR AGREEMENT, WITH THREE ONE-YEAR EXTENSION OPTIONS, FOR AN ESTIMATED ANNUAL AMOUNT OF \$50,000 AND TOTAL AMOUNT NOT TO EXCEED \$250,000 OVER FIVE YEARS, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE TO EXECUTE THE AGREEMENT**

WHEREAS, the Modesto Fire Department outfits personnel with various items of Personal Protection Equipment (PPE) to protect the department's fire suppression personnel from both known and unknown occupational safety and health hazards; and

WHEREAS, most individual PPE items have a set service life according to the National Fire Protection Association's (NFPA) standards; and

WHEREAS, in 2016, by Resolution 2016-478, City Council approved an agreement with Scotts PPE Recon, Inc. which recently expired on December 18, 2021; and

WHEREAS, the department is in need to continue regular cleaning, inspection, and repair services in order to ensure that personnel are adequately protected and that the useful life of department PPE is maximized; and

WHEREAS, the City Manager authorized the Purchasing Manager to issue a formal Request for Bids (RFB) for the furnishing of PPE Cleaning, Inspection and Repair Services; and

WHEREAS, on January 21, 2022, the Purchasing Division issued RFB NO. 2122-34, PPE Cleaning, Inspection and Repair Services, on Planet Bids via the City's website

under five commodity codes; prospective bidders were notified online and via email of the bid opportunity, and seventeen companies chose to download the RFB document; and

WHEREAS, on March 1, 2022, bids were formally opened by the City Clerk and broadcast via Microsoft Teams Livestream and one company chose to respond. Based on providing the lowest responsive and responsible bid, City staff recommends the award of the bid for the furnishing of PPE Cleaning, Inspection, and Repair Services for the Modesto Fire Department to Scotts PPE Recon, Inc., Lodi, CA; and

WHEREAS, Modesto Municipal Code Section 8-3.203 generally requires all purchases, which meet or exceed \$50,000 for material, equipment or contractual services to follow formal bid procedures. An award of bid and agreement for the furnishing of PPE Cleaning, Inspection, and Repair Services for the Modesto Fire Department to Scotts PPE Recon Inc., Lodi, CA, conforms to the Modesto Municipal Code because the City complied with the lowest Responsive and responsible bid; and

WHEREAS, funds are fully budgeted for each Fiscal Year in the following appropriation units: General Fund – Modesto Fire (0100-18210-52160); General Fund – Oakdale (0100-18212-52160); General Fund – Ceres (0100-18213-52160).

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the award of bid and agreement for the furnishing of Personal Protection Equipment (PPE) Cleaning, Inspection and Repair Services to Scotts PPE Recon Inc., Lodi, CA for the Modesto Fire Department, for a two-year Agreement, with three one-year extension options, for an estimated annual amount of \$50,000 and total amount not to exceed \$250,000 over five years.

BE IT FURTHER RESOLVED that the City Manager or designee is hereby authorized to execute the agreement, in a form approved by the City Attorney.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 14th day of June, 2022, by Councilmember Wright, who moved its adoption, which motion being duly seconded by Councilmember Kenoyer, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Escutia-Braaton, Kenoyer, Madrigal, Ricci, Wright, Mayor Zwahlen

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST:

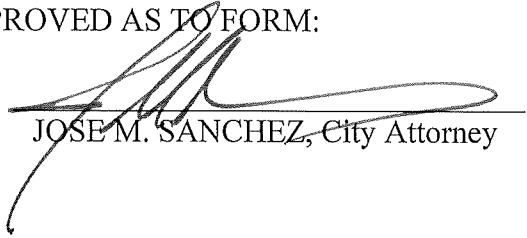


DIANE NAYARES-PEREZ, CMC,  
City Clerk

(SEAL)

APPROVED AS TO FORM:

BY:



JOSE M. SANCHEZ, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2022-273**

**RESOLUTION APPROVING THE AWARD OF PROPOSAL AND AGREEMENT FOR WORKERS' COMPENSATION CLAIMS MANAGEMENT SERVICES TO ATHENS ADMINISTRATORS, INC., CONCORD, CALIFORNIA, FOR A TWO-YEAR AGREEMENT WITH THREE, ONE-YEAR EXTENSION OPTIONS, FOR AN ESTIMATED ANNUAL AMOUNT OF \$480,430 AND A TOTAL AMOUNT NOT TO EXCEED \$2,511,820 OVER FIVE YEARS; AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE AGREEMENT**

WHEREAS, since 1979, the City of Modesto has been permissibly self-insured for workers' compensation claim liabilities under a self-insurance certificate issued by the State of California's Office of Self-Insured Plans, and

WHEREAS, the City purchases excess insurance for workers' compensation liabilities through Public Risk Innovation, Solutions, & Management (PRISM) with a self-insured retention of \$750,000, and

WHEREAS, on July 12, 2016, by Resolution No. 2016-296, Council approved the award of proposal and contract for the furnishing of workers' compensation TPA services to Innovative Claims Solutions for a term of two years, with three optional one-year extension options. On August 10, 2021, by Resolution No. 2021-321, Council approved an extension of that agreement through September 1, 2022 to allow staff time to complete a Request for Proposals (RFP) to renew or replace the existing agreement without a significant service disruption, and

WHEREAS, with the current agreement approaching the end of its term, the City Manager authorized the Purchasing Manager to issue a formal Request for Proposals (RFP) for the furnishing of workers' compensation claims management services, and

WHEREAS, on November 16, 2021, the Purchasing Division issued RFP 2021-44, Workers' Compensation Claims Management Program, on Planet Bids via the City's website under two commodity codes<sup>1</sup>. Prospective proposers were notified online and via email of the bid opportunity. Twenty companies chose to download the RFP document, and

WHEREAS, on December 28, 2021, proposals were formally opened by the City Clerk and broadcast via Microsoft Teams Livestream<sup>2</sup>. Six companies chose to respond, none of which were local companies. All six (6) companies provided responsive and responsible proposals, and

WHEREAS, an evaluation committee comprised of three (3) City staff members evaluated and graded the proposals, and

WHEREAS, based on being ranked highest in total evaluation criteria, the evaluation committee recommends the award of proposal and agreement for the furnishing of workers' compensation claims management program, to Athens Administrators, Inc., Concord, CA, and

WHEREAS, Modesto Municipal Code Section 8-3.203 generally requires all purchases, which meet or exceed \$50,000 for material, equipment or contractual services to be formally bid. The award of proposal and contract for workers' compensation claims management services to Athens Administrators, Inc., Anaheim, CA, conforms to the Modesto Municipal Code because the City complied with the formal bid procedures and Athens Administrators, Inc was the most responsive and responsible proposer.

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<sup>1</sup> 95300 – Insurance and Insurance Services, (All Types), 95861 – Insurance and Risk Management Services.

<sup>2</sup> Staff implemented a virtual bid opening in an effort to slow the spread of COVID-19.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves an agreement with Athens Administrators Inc. Concord, California, for a two-year Agreement with three, one-year extension options, for an estimated annual amount of \$480,430 and a total amount not to exceed \$2,511,820 over five years.

BE IT FURTHER RESOLVED, that the City Manager, or his designee, is authorized to execute the agreement, in a form approved by the City Attorney.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 14th day of June, 2022, by Councilmember Wright, who moved its adoption, which motion being duly seconded by Councilmember Kenoyer, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Escutia-Braaton, Kenoyer, Madrigal, Ricci, Wright, Mayor Zwahlen

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST:   
DIANE NAYARES-PEREZ, CMC,  
City Clerk

(SEAL)

APPROVED AS TO FORM:

BY:   
JOSE M. SANCHEZ, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2022-274**

**RESOLUTION CONSIDER REJECTING ALL BIDS RECEIVED FOR  
REQUEST FOR BID (RFB) NO. 2122-23 FOR BUILDING INTRUSION ALARM  
SERVICES AND AUTHORIZING STAFF, TO RE-EVALUATE AND RE-ISSUE  
AT A FUTURE DATE**

WHEREAS, the City of Modesto, Public Works Department, Building Administration and Maintenance Division is responsible for maintaining facilities within the City of Modesto which includes the intrusion systems within those facilities; and

WHEREAS, there has not been a city-wide agreement for intrusion system services which includes the detection of unauthorized entry, video/image coverage and third-party central office monitoring of these system; and

WHEREAS, on November 24, 2021, the Purchasing Division issued Request for Bid (RFB) No. 2122-23 for the Building Intrusion Alarm Services, and posted the RFB on the City's website and formally advertised as required by law; and

WHEREAS, on December 28, 2021, bids were formally opened by the City Clerk's office; and

WHEREAS, four companies chose to download the RFB documents; and

WHEREAS, after reviewing the bids received, it was determined that staff needed to amend the original Scope of Services to ensure a more competitive process and eliminate ambiguity in the original scope. This determination was based on the significant price variances between vendors (\$2,105 - \$49,904); and

WHEREAS, staff will work with the Finance Department to amend the Scope of Services to better define the project, and Purchasing will work on updating the bid process.

NOW, THEREFORE, BE IT RESOLVED, by the Council of the City of Modesto that it hereby consider rejects all bids received for RFB No. 2122-23 for Building Intrusion Alarm Services.

BE IT FURTHER RESOLVED, that staff, is hereby authorized to re-evaluate and re-issue the RFB at a future date.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 14th day of June, 2022, by Councilmember Wright, who moved its adoption, which motion being duly seconded by Councilmember Kenoyer, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Escutia-Braaton, Kenoyer, Madrigal, Ricci, Wright, Mayor Zwahlen

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST:   
DIANE NAYARES-PEREZ, CMC,  
City Clerk

(SEAL)

APPROVED AS TO FORM:

BY:   
JOSE M. SANCHEZ, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2022-275**

**RESOLUTION APPROVING A THIRD AMENDMENT TO THE AGREEMENT WITH E-BUILDER, INC., PLANTATION, FL, FOR A ONE-YEAR EXTENSION FOR CONSTRUCTION MANAGEMENT SOFTWARE IN AN AMOUNT NOT TO EXCEED \$79,013 FOR SYSTEM MAINTENANCE, SUPPORT AND LICENSING, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE AMENDMENT**

WHEREAS, the City of Modesto has the need for e-Builder software as a solution to the City's requirement to digitally manage, track and report on various Capital Improvement Projects; and

WHEREAS, prior to e-Builder, the City's standard documentation management system consisted of one comprehensive paper file structure as the official file for archiving and audit purposes, and

WHEREAS, on April 5, 2016, by Resolution 2016-136, Council approved an agreement for \$559,682 with e-Builder, Inc., Plantation, FL, to purchase and implement e-Builder software; and

WHEREAS, on February 13, 2018, by Resolution 2018-77, Council approved an amendment to the agreement with e-Builder, Inc., Plantation, FL, for the purchase and installation of a "Portfolio Level Funding" Cost Module to the City's construction management software; and

WHEREAS, on June 22, 2021, by Resolution 2021-228, Council approved a second amendment to the agreement with e-Builder, Inc., Plantation, FL, for a one-year extension option for construction management software; and

WHEREAS, the term of the second amendment is set to expire on June 30 of 2022 and Staff is therefore requesting a one-year extension option to allow for continued use of the construction management software system, while a new procurement effort can

be conducted to evaluate e-Builder and other potential construction management software systems.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves a third amendment to the agreement with e-Builder, Inc., Plantation, FL, in the amount of \$79,013, for a one-year extension option for construction management software.


BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to execute the amendment in a form approved by the City Attorney.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 14th day of June, 2022, by Councilmember Wright, who moved its adoption, which motion being duly seconded by Councilmember Kenoyer, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Escutia-Braaton, Kenoyer, Madrigal, Ricci, Wright, Mayor Zwahlen

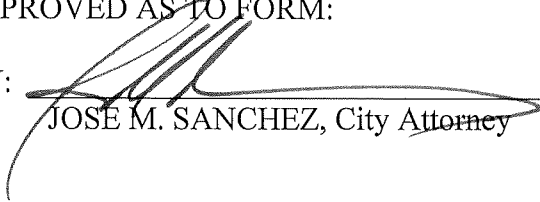
NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST:   
DIANE NAYARES-PEREZ, CMC,  
City Clerk

(SEAL)

APPROVED AS TO FORM:

BY:   
JOSE M. SANCHEZ, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2022-276**

**RESOLUTION APPROVING THE ANNUAL RATE ADJUSTMENT TO THE MAXIMUM RATE SCHEDULE FOR CITY SOLID WASTE COLLECTION SERVICES PROVIDED BY THE GARBAGE HAULERS AND BY R3 CONSULTANTS, FOR AN INCREASE OF \$8.40 PER MONTH FOR RESIDENTIAL SERVICES, AN INCREASE OF \$9.95 PER CUBIC YARD FOR COMMERCIAL SERVICES AND AN INCREASE OF \$8.05 PER PULL FOR INDUSTRIAL SERVICES TO BECOME EFFECTIVE JULY 1, 2022, AND AN INCREASE OF \$5.40 PER MONTH FOR RESIDENTIAL SERVICES, AN INCREASE OF \$25 PER ORGANICS AND/OR RECYCLING CART (COLLECTED ONCE A WEEK) FOR COMMERCIAL SERVICES TO BECOME EFFECTIVE JANUARY 1, 2023, RESCINDING RESOLUTION NO. 2021-217 FOR THE JULY 1, 2022 AND THE JANUARY 1, 2023 RATE ADJUSTMENT**

WHEREAS, with the adoption of Ordinance No. 3068-C.S. in November of 1997, the City no longer sets rates for the collection of garbage in Modesto, and instead performs a comprehensive review of cost information submitted by the contract garbage haulers; and

WHEREAS, the City sets the maximum rate that the haulers may charge for the various types of services provided under the contracts based on cost data provided by the lowest cost hauler; and

WHEREAS, Section 2 (f) of the City's Service Agreements with its solid waste collectors requires that when the City adjusts the collection services provided under the Agreements, any additional costs should be covered by adjustments to the maximum rates; and

WHEREAS, in addition, maximum rates for solid waste collection services are reviewed annually as per the Agreements with the City's garbage collection companies; and

WHEREAS, on June 8, 2021 by Resolution No. 2021-217, Council approved a

mid-year rate adjustment to the Maximum Rate Schedule for Solid Waste Services to become effective July 1, 2021; and

WHEREAS, based on the current analysis conducted by staff and a third-party consultant, R3, utilizing SB 1383 City implementation needs and the pricing information provided by the haulers, and based on the cost structure of the lowest cost hauler; and

WHEREAS, the waste allocation for FY 20/21 was 53.62% residential, 26.51% commercial, and 19.87% industrial; and

WHEREAS, the changes in waste allocation reflect the actual amount of waste from each sector, and residential and commercial allocations decreased, and industrial allocation increased as compared to FY 19/20, and these percentage allocations were then utilized in applying fees accordingly; and

WHEREAS, the Recycling and Green Waste Diversion Program Fees, stayed the same as FY 21/22; and

WHEREAS, the current maximum monthly rate for standard residential service is \$37.45 per household per month; and

WHEREAS, based on the cost structure of the lowest cost hauler, the rate analysis conducted by staff and a third-party consultant, a \$8.40 increase in the maximum residential rate is recommended for a new maximum residential rate of \$45.85, to be effective July 1, 2022, and a \$5.40 increase in the maximum residential rate is recommended for a new maximum residential rate of \$51.25, to be effective January 1, 2023; and

WHEREAS, the current base maximum rate for commercial detachable container service is \$54.09 for one-cubic yard picked up once weekly per month; and

WHEREAS, based on the cost structure of the lowest cost hauler, the rate analysis conducted by staff and a third-party consultant, a \$9.95 increase in the maximum commercial rate is recommended for a new maximum rate for commercial detachable container service of \$64.04 for one-cubic yard picked up once weekly per month, to be effective July 1, 2022, and an additional \$25 increase per organics and/or recycling cart to be effective January 1, 2023; and

WHEREAS, the maximum rates for industrial drop boxes and roll-off compactors are set for the pickup charge and daily rental rate only; and

WHEREAS, the actual disposal charge is negotiated directly between the garbage collection company and the customer; and

WHEREAS, the current maximum rate per pick-up is \$431.19, and a \$8.05 increase in the maximum drop boxes and roll-off compactor rate is recommended for a new maximum rate for boxes and roll-off compactor service of \$439.24 for one-cubic yard picked up; and

WHEREAS, the current AB 939 Green Waste Diversion fee is \$17.10 and shall remain the same for FY 22/23; and

WHEREAS, it was found and determined by the Council of the City of Modesto that the existing schedules of rates and charges for garbage service in the City of Modesto should be revised as recommended; and

WHEREAS, the fiscal impact related to the proposed adjustments for residential, commercial and industrial garbage and recycling services will increase revenue to the Solid Waste Fund by \$1,144,671, the General Fund by \$204,812, the Streets Fund by \$102,420, and the compost fund \$1,854,072.

NOW, THEREFORE, BE IT RESOLVED, by the Council of the City of Modesto that it hereby approves the Maximum Charges for Garbage Services provided by the garbage haulers, as **attached** hereto as **Attachment A**, dated July 1, 2022, **Attachment B**, dated January 1, 2023 and incorporated herein by reference. Said Maximum Charges for Garbage Service shall include all other services as stipulated in the Service Agreements and shall become effective July 1, 2022 and January 1, 2023 and shall remain in effect until revised or rescinded by Council.


BE IT FURTHER RESOLVED, that Resolution No. 2021-217 for the July 1, 2021 annual rate adjustment is hereby rescinded effective July 1, 2022 and January 1, 2023.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 14th day of June, 2022, by Councilmember Escutia-Braaton, who moved its adoption, which motion being duly seconded by Councilmember Ricci, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Escutia-Braaton, Madrigal, Ricci,  
Wright, Mayor Zwahlen

NOES: Councilmembers: None

ABSENT: Councilmembers: Kenoyer

ATTEST:   
DIANE NAYARES-PEREZ, CMC,  
City Clerk

(SEAL)

APPROVED AS TO FORM:

BY:   
JOSE M. SANCHEZ, City Attorney

**ATTACHMENT A**

**MAXIMUM CHARGES FOR GARBAGE SERVICE - JULY 1, 2022**

**STANDARD CONTAINERS - Maximum Monthly Rate**

Standard container service includes the following:

- 1 container for garbage picked up weekly, 1 container for organics waste, and 1 container for recycling picked up bi-weekly
- 2 bulky item collections per year by appointment
- City tree maintenance; collection & composting of green waste and forestry materials
- Removal of illegally dumped items in streets and alleys
- Drop off program for household hazardous waste

<b>Base Rate</b>	<b>\$ 34.73</b>
*Fuel Rate Adjustment	\$ 0.33
Compost Facility Improvements	\$ 1.70
Organic Waste Pre-Processing	\$ 1.72
City SB 1383 Implementation	\$ 1.05
Recycling Fee	\$ 0.46
Green Waste Fee	\$ 5.01
Carpenter Rd Landfill Fee	\$ 0.70
Geer Rd Landfill Fee	\$ 0.15
<b>MAXIMUM MONTHLY RATE</b>	<b>\$ 45.85</b>

Additional Garbage Container - \$ 13.00 each per month picked up once a week

Additional Organics Container - \$8.00 each per month picked up bi-weekly

Additional Recycling Container - \$8.00 each per month picked up bi-weekly

\*Containers must be placed in a location set forth in Section 5-5.111 of the MMC.

**DETACHABLE CONTAINERS - Maximum Monthly Rate**

Weekly rental for Detachable Containers shall not exceed the rate for 1 pick-up per week for each size container.

<b>Base Rate</b>	<b>\$ 42.92</b>
*Fuel Rate Adjustment	\$ 0.47
Compost Facility Improvements	\$ 3.08
Organic Waste Pre-Processing	\$ 3.11
City SB 1383 Implementation	\$ 1.90
Recycling Fee	\$ 0.63
Green Waste Fee	\$ 10.18
Litter Abatement	\$ 0.59
Carpenter Rd Landfill Fee	\$ 0.95
Geer Rd Landfill Fee	\$ 0.21
<b>MAXIMUM RATE 1 CU YD</b>	<b>\$ 64.04</b>

Bin Maximum Rates						
Container Size	Number of Collection Per week					
	1	2	3	4	5	6
1 CY	\$ 64.04	\$ 128.08	\$ 192.12	\$ 256.16	\$ 320.20	\$ 384.24
2 CY	\$ 128.08	\$ 256.16	\$ 384.24	\$ 512.32	\$ 640.40	\$ 768.48
3 CY	\$ 192.12	\$ 384.24	\$ 576.36	\$ 768.48	\$ 960.60	\$ 1,152.72
4 CY	\$ 256.16	\$ 512.32	\$ 768.48	\$ 1,024.64	\$ 1,280.80	\$ 1,536.96
5 CY	\$ 320.20	\$ 640.40	\$ 960.60	\$ 1,280.80	\$ 1,601.00	\$ 1,921.20
6 CY	\$ 384.24	\$ 768.48	\$ 1,152.72	\$ 1,536.96	\$ 1,921.20	\$ 2,305.44

**\*Residential and Commercial Fuel Component adjustments** - The fuel component is set annually as part of the base cost. It is reviewed quarterly and adjustments shall be made as needed. The adjustment shall be based on the average price of fuel From July 1, 2021 to March 31, 2022. Average prices shall be determined based on published prices for California from the Department of Energy, Energy Information Agency and a fuel factor based on the haulers' audited financials at annual rate review each year.

**DROP BOX CONTAINERS – Maximum Rate Per Pick-Up**

Actual disposal charges are paid and negotiated directly between the customer and the garbage company. The garbage company will provide up to 40CY Drop Box containers for stated charges subject only to load limit of transfer vehicle.

An AB 939 Green Waste Diversion Fee of \$17.10 per ton is added to the disposal charges.

<b>Base Rate</b>	<b>\$ 383.21</b>
Recycling Fee	\$ 19.71
Carpenter Rd Landfill Fee	\$ 29.77
Geer Rd Landfill Fee	\$ 6.55
<b>MAXIMUM RATE PER PICK-UP</b>	<b>\$ 439.24</b>

**Rental Fees**

\$0.85 per day up to 7-day maximum rental  
 \$3.00 per day for boxes kept 7 or more days without servicing  
 \$10.00 per day for boxes kept 21 or more days without servicing

**COMPACTORS – Maximum Monthly Rate**

Front Loader Compactors

Compactor Rates						
Container Size	Number of Collection per week					
	1	2	3	4	5	6
3 CY	\$ 576.36	\$ 1,152.72	\$ 1,729.08	\$ 2,305.44	\$ 2,881.80	\$ 3,458.16
4 CY	\$ 768.48	\$ 1,536.96	\$ 2,305.44	\$ 3,073.92	\$ 3,842.40	\$ 4,610.88
6 CY	\$ 1,152.72	\$ 2,305.44	\$ 3,458.16	\$ 4,610.88	\$ 5,763.60	\$ 6,916.32

Roll-Off Compactors

- 6CY to 40CY \$431.19 per pick-up
- Hospital waste compactors \$265.00 per pick-up
- Washing compactor \$30.00
- Disposal Charge Actual charge to be paid by customer
- AB939 Green Waste Diversion Fee \$17.10 per ton

**EXTRA PICKUPS**

Standard containers or equivalent \$3.50 plus \$2.30/container  
 Detachable containers \$12.00 plus \$4.15/cubic yard

**SPECIAL SERVICE CONDITIONS**

In situations where none of the above maximum rates reasonably apply, the cost of service is to be negotiated between the garbage company and the customer.

**DETACHABLE CONTAINER ONLY—Replacement and Cleaning Services**

1 CY	1½ CY	2 CY	3 CY	4 CY	5 CY	6 CY
\$10.12	\$11.00	\$12.10	\$15.40	\$20.24	\$25.08	\$29.92

NOTATION: Pursuant to Section 11-6.16(c)(2) of the Modesto Municipal Code, the solid waste company may require a deposit equivalent to two months service charge from customers prior to beginning service. The deposit will be credited back to the customer after 18 months under specified conditions.

**ATTACHMENT B**

**MAXIMUM CHARGES FOR GARBAGE SERVICE - JANUARY 1, 2023**

**STANDARD CONTAINERS - Maximum Monthly Rate**

Standard container service includes the following:

- 1 container for garbage picked up weekly, 1 container for organics waste, and 1 container for recycling picked up bi-weekly
- 2 bulky item collections per year by appointment
- City tree maintenance; collection & composting of green waste and forestry materials
- Removal of illegally dumped items in streets and alleys
- Drop off program for household hazardous waste

<b>Base Rate</b>	<b>\$ 34.73</b>
Fuel Rate Adjustment	\$ 0.33
SB 1383 Collection Program	\$ 5.40
Compost Facility Improvements	\$ 1.70
Organic Waste Pre-Processing	\$ 1.72
SB 1383 Implementation	\$ 1.05
Recycling Fee	\$ 0.46
Green Waste Fee	\$ 5.01
Carpenter Rd Landfill Fee	\$ 0.70
Geer Rd Landfill Fee	\$ 0.15
<b>MAXIMUM MONTHLY RATE</b>	<b>\$ 51.25</b>

Additional Garbage Container - \$ 13.00 each per month picked up once a week

Additional Organics Container - \$8.00 each per month picked up bi-weekly

Additional Recycling Container - \$8.00 each per month picked up bi-weekly

\*Containers must be placed in a location set forth in Section 5-5.111 of the MMC.

**DETACHABLE CONTAINERS - Maximum Monthly Rate**

Weekly rental for Detachable Containers shall not exceed the rate for 1 pick-up per week for each size container.

<b>Base Rate</b>	<b>\$ 42.92</b>
*Fuel Rate Adjustment	\$ 0.47
Compost Facility Improvements	\$ 3.08
Organic Waste Pre-Processing	\$ 3.11
SB 1383 Implementation	\$ 1.90
Recycling Fee	\$ 0.63
Green Waste Fee	\$ 10.18
Litter Abatement	\$ 0.59
Carpenter Rd Landfill Fee	\$ 0.95
Geer Rd Landfill Fee	\$ 0.21
<b>MAXIMUM RATE 1 CU YD</b>	<b>\$ 64.04</b>

Bin Maximum Rates						
Container Size	Number of Collection Per week					
	1	2	3	4	5	6
1 CY	\$ 64.04	\$ 128.08	\$ 192.12	\$ 256.16	\$ 320.20	\$ 384.24
2 CY	\$ 128.08	\$ 256.16	\$ 384.24	\$ 512.32	\$ 640.40	\$ 768.48
3 CY	\$ 192.12	\$ 384.24	\$ 576.36	\$ 768.48	\$ 960.60	\$ 1,152.72
4 CY	\$ 256.16	\$ 512.32	\$ 768.48	\$ 1,024.64	\$ 1,280.80	\$ 1,536.96
5 CY	\$ 320.20	\$ 640.40	\$ 960.60	\$ 1,280.80	\$ 1,601.00	\$ 1,921.20
6 CY	\$ 384.24	\$ 768.48	\$ 1,152.72	\$ 1,536.96	\$ 1,921.20	\$ 2,305.44

Material Type	96 Gallon Cart Maximum Rates				
	Number of Collection Per Week				
	1	2	3	4	5
Recycling/Organics	\$ 25.00	\$ 50.00	\$ 75.00	\$ 100.00	\$ 125.00

**\*Residential and Commercial Fuel Component adjustments** - The fuel component is set annually as part of the base cost. It is reviewed quarterly and adjustments shall be made as needed. The adjustment shall be based on the average price of fuel From July 1, 2021 to March 31, 2022. Average prices shall be determined based on published prices for California from the Department of Energy, Energy Information Agency and a fuel factor based on the haulers' audited financials at annual rate review each year.

**DROP BOX CONTAINERS – Maximum Rate Per Pick-Up**

Actual disposal charges are paid and negotiated directly between the customer and the garbage company. The garbage company will provide up to 40CY Drop Box containers for stated charges subject only to load limit of transfer vehicle.

An AB 939 Green Waste Diversion Fee of \$17.10 per ton is added to the disposal charges.

<b>Base Rate</b>	<b>\$ 383.21</b>
Recycling Fee	\$ 19.71
Carpenter Rd Landfill Fee	\$ 29.77
Geer Rd Landfill Fee	\$ 6.55
<b>MAXIMUM RATE PER PICK-UP</b>	<b>\$ 439.24</b>

**Rental Fees**

\$0.85 per day up to 7-day maximum rental

\$3.00 per day for boxes kept 7 or more days without servicing

\$10.00 per day for boxes kept 21 or more days without servicing

**COMPACTORS – Maximum Monthly Rate**

**Front Loader Compactors**

Compactor Rates						
Container Size	Number of Collection per week					
	1	2	3	4	5	6
3 CY	\$ 576.36	\$ 1,152.72	\$ 1,729.08	\$ 2,305.44	\$ 2,881.80	\$ 3,458.16
4 CY	\$ 768.48	\$ 1,536.96	\$ 2,305.44	\$ 3,073.92	\$ 3,842.40	\$ 4,610.88
6 CY	\$ 1,152.72	\$ 2,305.44	\$ 3,458.16	\$ 4,610.88	\$ 5,763.60	\$ 6,916.32

**Roll-Off Compactors**

- 6CY to 40CY \$431.19 per pick-up
- Hospital waste compactors \$265.00 per pick-up
- Washing compactor \$30.00
- Disposal Charge Actual charge to be paid by customer
- AB939 Green Waste Diversion Fee \$17.10 per ton

**EXTRA PICKUPS**

Standard containers or equivalent \$3.50 plus \$2.30/container  
 Detachable containers \$12.00 plus \$4.15/cubic yard

**SPECIAL SERVICE CONDITIONS**

In situations where none of the above maximum rates reasonably apply, the cost of service is to be negotiated between the garbage company and the customer.

**DETACHABLE CONTAINER ONLY–Replacement and Cleaning Services**

1 CY	1½ CY	2 CY	3 CY	4 CY	5 CY	6 CY
\$10.12	\$11.00	\$12.10	\$15.40	\$20.24	\$25.08	\$29.92

NOTATION: Pursuant to Section 11-6.16(c)(2) of the Modesto Municipal Code, the solid waste company may require a deposit equivalent to two months service charge from customers prior to beginning service. The deposit will be credited back to the customer after 18 months under specified conditions.

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2022-277**

**RESOLUTION APPROVING A QUARTERLY FUEL RATE ADJUSTMENT TO THE MAXIMUM RATE SCHEDULE FOR CITY SOLID WASTE COLLECTION SERVICES PROVIDED BY THE HAULERS, FOR AN INCREASE OF \$0.33 PER MONTH FOR RESIDENTIAL SERVICES, AND AN INCREASE OF \$0.47 PER CUBIC YARD FOR COMMERCIAL SERVICES, TO BECOME EFFECTIVE JULY 1, 2022, AND RESCINDING RESOLUTION NO. 2021-217 FOR THE JULY 1, 2021 ANNUAL RATE ADJUSTMENT**

WHEREAS, with the adoption of Ordinance No. 3068-C.S. in November of 1997, the City no longer sets rates for the collection of garbage in Modesto, and instead performs a comprehensive review of cost information submitted by the contract garbage haulers; and

WHEREAS, the City sets the maximum rate that the haulers may charge for the various types of services provided under the contracts based on cost data provided by the lowest cost hauler; and

WHEREAS, Section 2 (f) of the City's Service Agreements with its solid waste collectors requires that when the City adjusts the collection services provided under the Agreements, any additional costs should be covered by adjustments to the maximum rates; and

WHEREAS, in addition, maximum rates for solid waste collection services are reviewed annually as per the Agreements with the City's garbage collection companies; and

WHEREAS, the City analyzes the audited financial statements provided by the garbage haulers, supplemental data provided by the garbage haulers, and fuel price information and forecast prices developed by the United States Department of Energy; and

WHEREAS, on June 27, 2006, by Resolution No. 2006-410, Council approved

making routine quarterly adjustments as needed to the component of the maximum rates attributable to the cost of fuel; and

WHEREAS, the fuel rates analyzed for this rate adjustment were based on the Department of Energy average diesel fuel prices from July 2021 through March 2022; and

WHEREAS, this action is to adjust maximum rates for fuel and therefore does not require environmental review; and

WHEREAS, it was found and determined by the Council of the City of Modesto that the quarterly adjustment to the fuel component of the maximum rates should be made.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the quarterly fuel adjustment from July 2021 through March 2022 to the Maximum Rate Schedule for Garbage Services, **Attachment A**, dated July 1, 2022, for an increase of \$0.33 per month for residential services and an increase of \$0.47 per cubic yard per month for commercial services and shall become effective July 1, 2022 and shall remain in effect until rescinded.


BE IT FURTHER RESOLVED that Resolution No. 2021-217 for the July 1, 2021 annual rate adjustment is hereby rescinded effective July 1, 2022.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 14th day of June, 2022, by Councilmember Escutia-Braaton, who moved its adoption, which motion being duly seconded by Councilmember Ricci, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Escutia-Braaton, Madrigal, Ricci,  
Wright, Mayor Zwahlen

NOES: Councilmembers: None

ABSENT: Councilmembers: Kenoyer

ATTEST   
DIANE NAYARES-PEREZ, CMC,  
City Clerk

(SEAL)

APPROVED AS TO FORM:

BY:   
JOSE M. SANCHEZ, City Attorney

**ATTACHMENT A**

**MAXIMUM CHARGES FOR GARBAGE SERVICE - JULY 1, 2022**

**STANDARD CONTAINERS - Maximum Monthly Rate**

Standard container service includes the following:

- 1 container for garbage picked up weekly, 1 container for organics waste, and 1 container for recycling picked up bi-weekly
- 2 bulky item collections per year by appointment
- City tree maintenance; collection & composting of green waste and forestry materials
- Removal of illegally dumped items in streets and alleys
- Drop off program for household hazardous waste

<b>Base Rate</b>	<b>\$ 34.73</b>
*Fuel Rate Adjustment	\$ 0.33
Compost Facility Improvements	\$ 1.70
Organic Waste Pre-Processing	\$ 1.72
City SB 1383 Implementation	\$ 1.05
Recycling Fee	\$ 0.46
Green Waste Fee	\$ 5.01
Carpenter Rd Landfill Fee	\$ 0.70
Geer Rd Landfill Fee	\$ 0.15
<b>MAXIMUM MONTHLY RATE</b>	<b>\$ 45.85</b>

Additional Garbage Container - \$ 13.00 each per month picked up once a week

Additional Organics Container - \$8.00 each per month picked up bi-weekly

Additional Recycling Container - \$8.00 each per month picked up bi-weekly

\*Containers must be placed in a location set forth in Section 5-5.111 of the MMC.

**DETACHABLE CONTAINERS - Maximum Monthly Rate**

Weekly rental for Detachable Containers shall not exceed the rate for 1 pick-up per week for each size container.

<b>Base Rate</b>	<b>\$ 42.92</b>
*Fuel Rate Adjustment	\$ 0.47
Compost Facility Improvements	\$ 3.08
Organic Waste Pre-Processing	\$ 3.11
City SB 1383 Implementation	\$ 1.90
Recycling Fee	\$ 0.63
Green Waste Fee	\$ 10.18
Litter Abatement	\$ 0.59
Carpenter Rd Landfill Fee	\$ 0.95
Geer Rd Landfill Fee	\$ 0.21
<b>MAXIMUM RATE 1 CU YD</b>	<b>\$ 64.04</b>

Bin Maximum Rates						
Container Size	Number of Collection Per week					
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2 CY	\$ 128.08	\$ 256.16	\$ 384.24	\$ 512.32	\$ 640.40	\$ 768.48
3 CY	\$ 192.12	\$ 384.24	\$ 576.36	\$ 768.48	\$ 960.60	\$ 1,152.72
4 CY	\$ 256.16	\$ 512.32	\$ 768.48	\$ 1,024.64	\$ 1,280.80	\$ 1,536.96
5 CY	\$ 320.20	\$ 640.40	\$ 960.60	\$ 1,280.80	\$ 1,601.00	\$ 1,921.20
6 CY	\$ 384.24	\$ 768.48	\$ 1,152.72	\$ 1,536.96	\$ 1,921.20	\$ 2,305.44

**\*Residential and Commercial Fuel Component adjustments** - The fuel component is set annually as part of the base cost. It is reviewed quarterly and adjustments shall be made as needed. The adjustment shall be based on the average price of fuel From July 1, 2021 to March 31, 2022. Average prices shall be determined based on published prices for California from the Department of Energy, Energy Information Agency and a fuel factor based on the haulers' audited financials at annual rate review each year.

**DROP BOX CONTAINERS – Maximum Rate Per Pick-Up**

Actual disposal charges are paid and negotiated directly between the customer and the garbage company. The garbage company will provide up to 40CY Drop Box containers for stated charges subject only to load limit of transfer vehicle.

An AB 939 Green Waste Diversion Fee of \$17.10 per ton is added to the disposal charges.

<b>Base Rate</b>	<b>\$ 383.21</b>
Recycling Fee	\$ 19.71
Carpenter Rd Landfill Fee	\$ 29.77
Geer Rd Landfill Fee	\$ 6.55
<b>MAXIMUM RATE PER PICK-UP</b>	<b>\$ 439.24</b>

**Rental Fees**

\$0.85 per day up to 7-day maximum rental  
 \$3.00 per day for boxes kept 7 or more days without servicing  
 \$10.00 per day for boxes kept 21 or more days without servicing

**COMPACTORS – Maximum Monthly Rate**

Front Loader Compactors

Compactor Rates						
Container Size	Number of Collection per week					
	1	2	3	4	5	6
3 CY	\$ 576.36	\$ 1,152.72	\$ 1,729.08	\$ 2,305.44	\$ 2,881.80	\$ 3,458.16
4 CY	\$ 768.48	\$ 1,536.96	\$ 2,305.44	\$ 3,073.92	\$ 3,842.40	\$ 4,610.88
6 CY	\$ 1,152.72	\$ 2,305.44	\$ 3,458.16	\$ 4,610.88	\$ 5,763.60	\$ 6,916.32

Roll-Off Compactors

- 6CY to 40CY \$431.19 per pick-up
- Hospital waste compactors \$265.00 per pick-up
- Washing compactor \$30.00
- Disposal Charge Actual charge to be paid by customer
- AB939 Green Waste Diversion Fee \$17.10 per ton

**EXTRA PICKUPS**

Standard containers or equivalent \$3.50 plus \$2.30/container  
 Detachable containers \$12.00 plus \$4.15/cubic yard

**SPECIAL SERVICE CONDITIONS**

In situations where none of the above maximum rates reasonably apply, the cost of service is to be negotiated between the garbage company and the customer.

**DETACHABLE CONTAINER ONLY—Replacement and Cleaning Services**

1 CY	1½ CY	2 CY	3 CY	4 CY	5 CY	6 CY
\$10.12	\$11.00	\$12.10	\$15.40	\$20.24	\$25.08	\$29.92

NOTATION: Pursuant to Section 11-6.16(c)(2) of the Modesto Municipal Code, the solid waste company may require a deposit equivalent to two months service charge from customers prior to beginning service. The deposit will be credited back to the customer after 18 months under specified conditions.

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2022-278**

**RESOLUTION AUTHORIZING THE CITY OF MODESTO TO UTILIZE THE SERVICES OF DAVID SAVIDGE ON AN INTERIM BASIS TO FULFILL THE DUTIES OF WASTEWATER DIVISION MANAGER FOR A LIMITED DURATION OF UP TO SIX (6) MONTHS OR UNTIL THE RECRUITMENT IS COMPLETED, WHICHEVER IS FIRST; AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO TAKE THE NECESSARY STEPS TO IMPLEMENT THE PROVISIONS OF THE ACTION**

WHEREAS, the City requests authorization to utilize the services of retired annuitant David Savidge for a limited duration; and

WHEREAS, changes to the California Public Employee Retirement System (CalPERS), requires that a retiree serve a 180-day waiting period prior to being allowed to work for a CalPERS agency with the following exceptions; and

WHEREAS, the California Public Employees' Retirement System (CalPERS) recognizes that retirees can play an important role in maintaining city operations, particularly in short-term or emergency situations; however, they also specify limitations on a retiree's service when returning to work for a CalPERS agency. Government Code §7522.56 & 21221 (h) provides specific guidance on employing a CalPERS retiree without interruption to retirement benefits or reinstatement from retirement; and

WHEREAS, CalPERS Publication 33 stipulates certain conditions must all be met in order for an appointment to move forward. These conditions are:

- The retiree must wait 180 days after his or her retirement date before he or she can return to work for a CalPERS employer, unless there is a qualifying exception.
- The appointment of a retired annuitant must be for a limited duration for a vacant position.

- The appointment of a particular retired annuitant must only occur once.
- The retired annuitant's salary cannot be less than the minimum or exceed the maximum for the vacant position as listed on the employer's publicly available pay schedule for the position.
- The retired annuitant cannot be paid any other compensation or benefits in addition to the hourly pay rate.
- A maximum of 960 hours can be worked within a fiscal year (July 1 to June 30) and CalPERS does not provide any exception to this limit. Non-paid or volunteer hours can't be used in order to exceed 960 hours in a fiscal year.
- The retiree will not accrue service credit or any additional retirement rights or benefits; and

WHEREAS, the Wastewater Division Manager is a key leadership position in the Utilities Department, and oversees the management functions of the entire Division, which consists of Wastewater Administration, Collections, Treatment, Maintenance and Environmental Compliance; and

WHEREAS, recent recruitment for this position has proven unsuccessful. While the Utilities and Human Resources Departments develop an updated recruitment strategy to fill the position, there is still a need for day-to-day administrative oversight of the Wastewater Division; and

WHEREAS, Mr. Savidge was employed with the City for over 25 years and possesses the needed skills to successfully fill the position on a temporary basis.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the rehire of the services of David Savidge on an interim basis for a limited duration of up to six (6) months or until the recruitment is completed, whichever is first.

BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to execute the agreement in a form approved by the City Attorney.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 14th day of June, 2022, by Councilmember Ricci, who moved its adoption, which motion being duly seconded by Councilmember Wright, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Escutia-Braaton, Madrigal, Ricci,  
Wright, Mayor Zwahlen

NOES: Councilmembers: None

ABSENT: Councilmembers: Kenoyer

ATTEST:

  
DIANE NAYARES-PEREZ, CMC,  
City Clerk

(SEAL)

APPROVED AS TO FORM:

BY:

  
JOSE M. SANCHEZ, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2022-279**

**RESOLUTION FINDING THAT THE JM PIKE PARK STORMWATER TO  
SANITARY SEWER CROSS CONNECTION REMOVAL AND WATER MAIN  
PROJECT IS WITHIN THE SCOPE OF THE PROJECT COVERED BY THE  
FINAL ENVIRONMENTAL IMPACT REPORT FOR THE CITY OF MODESTO  
WASTEWATER MASTER PLAN (SCH # 2006052076)**

WHEREAS, the JM Pike Park Stormwater to Sanitary Sewer Cross Connection Removal and Water Main Project (Pike Park) is the third of four phases of cross connection removal projects in the City of Modesto as provided for by the City of Modesto Wastewater Master Plan, and

WHEREAS, Pike Park proposes to remove nine storm drain to sewer cross-connections and twenty eight failed rock wells, and

WHEREAS, in their place, approximately 10,566 feet of 24-inch and 30-inch storm drain piping will be installed to convey storm runoff to an underground storm drainage retention/infiltration system at JM Pike Park, and

WHEREAS, the Utility Department has prepared an Initial Study, Environmental Assessment No. EA/UP&P 2020-09 for the proposed JM Pike Park Stormwater to Sanitary Sewer Cross Connection Removal and Water Main Project, which concluded that the project is within the scope of the Final Wastewater Master Plan Master Environmental Impact Report for the City of Modesto (SCH No. 2006052076) pursuant to Section 21157.1 of the Public Resources Code, no new environmental review is required, and

WHEREAS, pursuant to Public Resources Code Section 21081 and 21158(d), the City of Modesto finds that no new effects could occur or no new mitigation measures

would be required, therefore the activity is within the scope of the project covered by the Master EIR and no new environmental review is required, and

WHEREAS, in accordance with CEQA guidelines on May 10, 2022, 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.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it has reviewed and considered the Initial Study prepared for the proposed 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 type of project is described in Chapter II of the Wastewater Master Plan Master EIR.
2. All applicable policies, regulations, and mitigation measures identified in the Wastewater Master Plan Master EIR.
3. An Initial Study, EA/UP&P 2020-09, was prepared by the City of Modesto that analyzed whether the subsequent project may cause any significant effect on the environment that was not examined in the Wastewater Master Plan Master EIR and whether the subsequent project was described in the Master EIRs and is within the scope of the Master EIR.
4. Based on the Initial Study, the City of Modesto finds and determines:
  - a. The proposed subsequent project will have no additional significant effect on the environment, as defined in subdivision (d) of Section 21158 of the

Public Resources Code that was not identified in and mitigated through the Master EIRs.

b. No new or additional mitigation measures or alternatives are required.

BE IT FURTHER RESOLVED by the Council of the City of Modesto that the Director of Utilities 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 14th day of June, 2022, by Councilmember Wright, who moved its adoption, which motion being duly seconded by Councilmember Escutia-Braaton, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Escutia-Braaton, Madrigal, Ricci,  
Wright, Mayor Zwahlen

NOES: Councilmembers: None

ABSENT: Councilmembers: Kenoyer

ATTEST:

  
DIANE NAYARES-PEREZ, CMC,  
City Clerk

(SEAL)

APPROVED AS TO FORM:

BY:

  
JOSE M. SANCHEZ, City Attorney

**Exhibit "A"**

**INITIAL STUDY  
EA/UP&P 2020-09**

# **City of Modesto**

## **Finding of Conformance to Wastewater System EIR:**

### **Initial Study Environmental Checklist EA/UTL No. 2020-09**

**For the proposed:**

### **JM Pike Park Stormwater to Sanitary Cross- Connection Removal Project**

**Prepared by:  
City of Modesto  
Utilities Department**

June 2020

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# **City of Modesto Wastewater System EIR Initial Study Environmental Checklist**

## **I. PURPOSE**

CEQA allows for the limited environmental review of subsequent projects under the City's Wastewater System Environmental Impact Report (SCH# 2013082006) ("EIR"). The Wastewater System EIR updates and replaces earlier Wastewater Master Plan analysis. This Initial Study Environmental Checklist ("Initial Study") is used in determining whether the JM Pike Park Stormwater to Sanitary Cross-Connection Removal Project is "within the scope" of the project analyzed in the Wastewater System EIR (SCH# 2013082006) (Public Resources Code section 21157.1). If the Initial Study supports this conclusion, the City will issue a finding of conformance.

A subsequent project is "within the scope" of an EIR when:

1. it will have no additional significant effects on the environment that were not addressed as significant effects in the EIR; and
2. no new or additional mitigation measures or alternatives are required.

"Additional significant effects" means a project-specific effect that was not addressed as a significant effect in the Master EIR. [Public Resources Code Section 21158(d)]

This analysis is for conformance with the 2019 Wastewater System Environmental Impact Report (SCH# 2013082006).

## **II. PROJECT DESCRIPTION**

- A. Title: JM Pike Park Stormwater to Sanitary Cross-Connection Removal Project
- B. Address or Location: Modesto, Stanislaus County. The JM Pike Park Stormwater to Sanitary Cross-Connection Removal Project includes installation of facilities within JM Pike Park, located at the northwest corner of the intersection of Kearney Ave. and Princeton Ave., and piping and rockwell work within public street ROW in the surrounding tributary area as depicted in Figures 2 and 3. Within Stanislaus County. Latitude: 37.66° N, Longitude: 121.02° W. A location map is attached as Figure 1.

Applicant: City of Modesto  
Engineering Department  
1010 Tenth Street, Suite 4600  
P. O. Box 642  
Modesto, CA 95353

D. City Contact Person:

Project Manager: Miguel Alvarez  
Department: Engineering Department  
Phone Number: (209) 577-5348

E-mail address: malvarez@modestogov.com

- E. Current General Plan Designation(s): Primarily R (Residential) with small areas of C (Commercial) and MU (Mixed Use).
- F. Current Zoning Classification(s): The park site where most construction will take place is zoned R-1. The piping directing flow to the retention will be installed within City street rights of way in areas zoned primarily R-1 with some R-2, R-3, C-1, and M-1.
- G. Surrounding Land Uses: A retention/infiltration facility will be constructed in JM Pike Park. Construction activities related to cross-connection removal will take place within street ROW in surrounding existing developed neighborhoods including residential, parks and schools, and nearby commercial and industrial areas. The residential land uses are predominantly single-family residential uses with some multi-family structures.
- H. Project Description:

The JM Pike Park Stormwater to Sanitary Cross-Connection Removal Project is the third of four phases of cross connection removal projects in the City of Modesto. The JM Pike Park project proposes to remove nine (9) storm drain to sewer cross-connections and twenty eight (28) failed rock wells within a 74-acre tributary area. In their place, approximately 1,170 feet of 18 inch, 1,949 feet of 24 inch, 1,758 of 30 inch, 3,281 feet of 36 inch, 645 feet of 42 inch, and 2,081 feet of 48 inch storm drain piping will be installed to convey storm runoff to an underground storm drainage retention/infiltration system at JM Pike Park.

Currently, the cross-connections and rock wells provide storm water drainage for residents and businesses within the defined 78-acre area. The cross connections capture excess storm water which then flows to the City's primary wastewater treatment facility. These storm drain/sanitary sewer connections reduce localized neighborhood flooding and increase the volume of wet weather flows in the sanitary sewers and treatment plants. During storm events, these connections affect capacity in the sanitary sewer collection system and wastewater treatment plants. The removal of these nine cross connections will alleviate some of the wet weather flows, (approximately 17.3 MG per year) experienced by the sanitary sewer system, thereby carrying out the proposed action to improve the City's sewer operations through the removal of storm drainage cross connections as identified and established by the City's 2007 Wastewater Master Plan as updated in 2016.

The re-routed storm water runoff will be conveyed through storm drain pipes to JM Pike Park where it will be received in an underground storage system. The storage system will provide retention of storm water for a 100-year, 24-hour storm event. Storm water will be pre-treated to remove trash, sediment, oil, grease, and other substances prior to infiltration and eventual recharge of groundwater.

Approximately 4.5 acres of the JM Pike park land will be affected by construction of this proposed project. The area affected will involve the temporary removal of turf areas and irrigation systems. The placement of underground storage facilities will require the removal of some trees. Upon completion of the underground retention storage facilities, the park will be restored with new turf and irrigation systems, playing fields, and site furnishings. Any trees removed will be replaced with trees, and landscaping will be updated with drought tolerant plants, and decomposed granite paving as established by the city.

The 100-year, 24-hour storm drainage retention volume for the JM Pike Park facility will be 22.8 acre feet. This capacity is based on a rainfall of 5.6 inches, the 100-year/6-day storm.

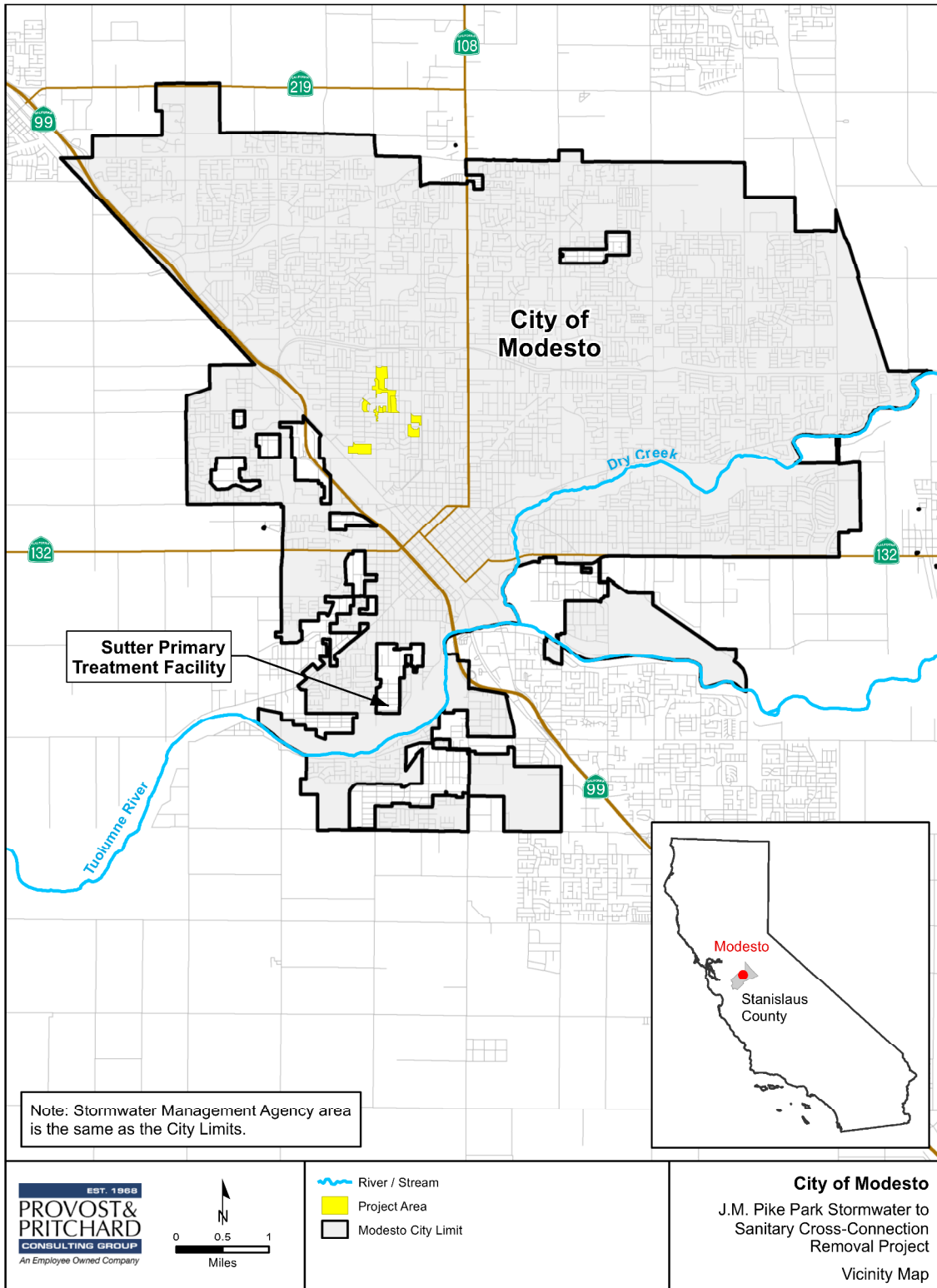
The design percolation rate for the JM Pike Park facility is 16.9 inches per hour. A map showing the location of facilities to be installed is attached as Figure 2.

Described in Wastewater System EIR: Improvements to the City's wastewater collection system, including the removal of storm drainage cross-connections and installation of alternative facilities for the collection and disposal of storm water, was provided for in the City's Wastewater Master Plan and its EIR.

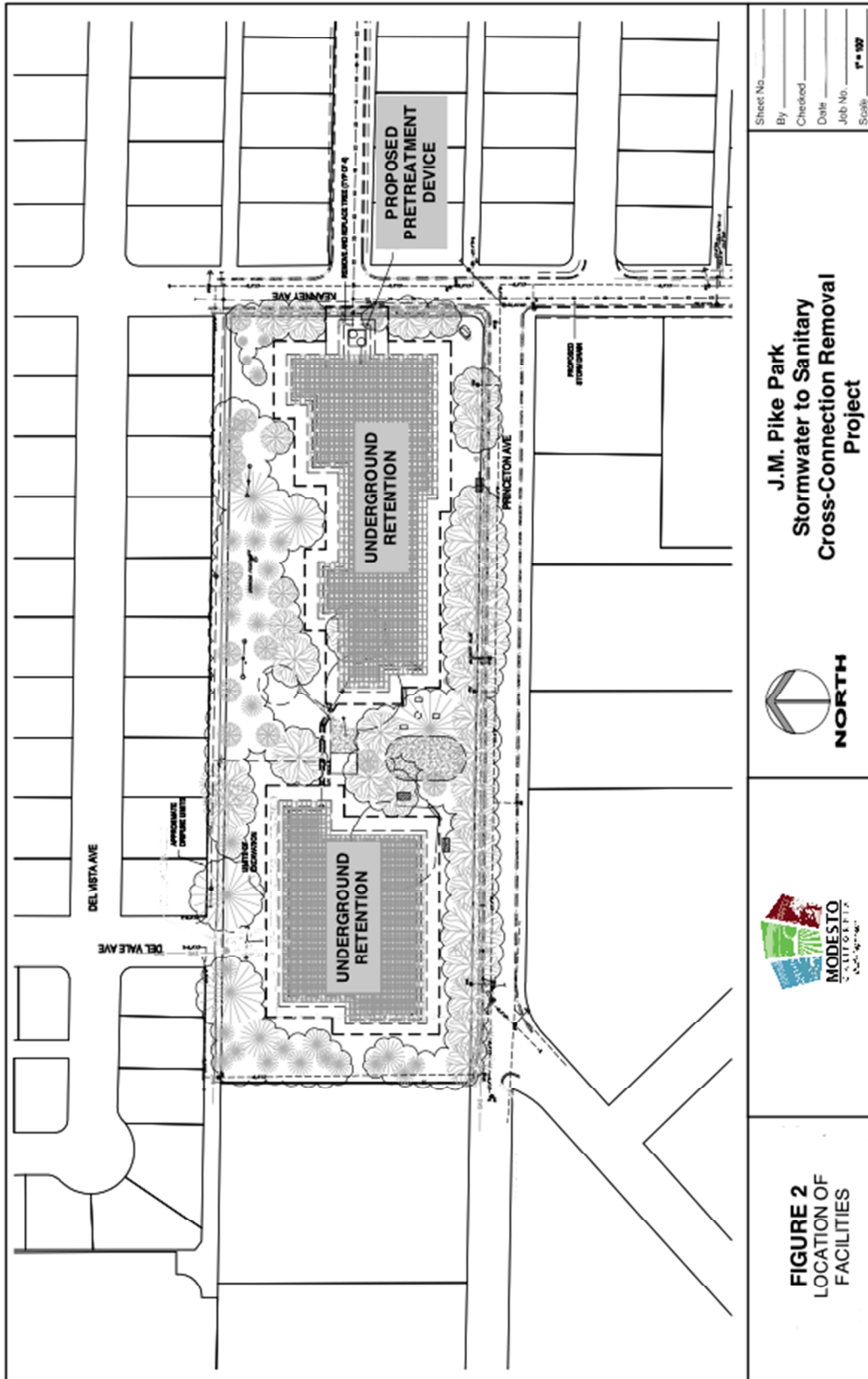
I. Other Public Agencies Whose Approval is Required:

California Department of Water Resources

**FIGURE 1: LOCATION MAP**



**FIGURE 2: FACILITIES IN PARK**

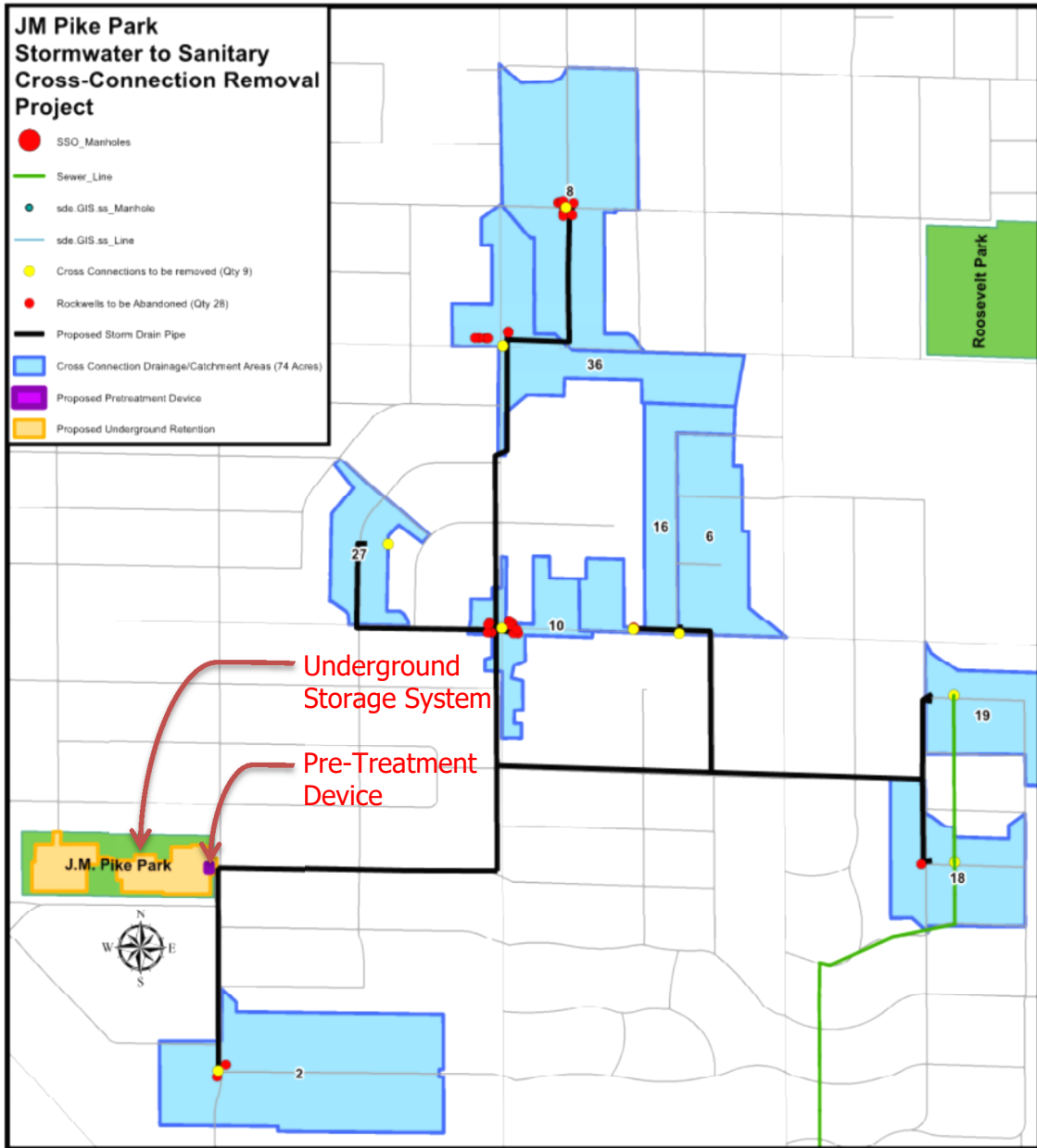


**J.M. Pike Park  
Stormwater to Sanitary  
Cross-Connection Removal  
Project**



**FIGURE 2  
LOCATION OF  
FACILITIES**

**FIGURE 3: OVERALL PROJECT FACILITIES DIAGRAM**



**III. FINDINGS/DETERMINATION (SELECT ONE ON THE BASIS OF THE ANALYSIS IN SECTION IV)**

1. X **Within the Scope** - The project is within the scope of the Wastewater System EIR and no new environmental document or Public Resources Code Section 21081 findings are required. All of the following statements are found to be true:

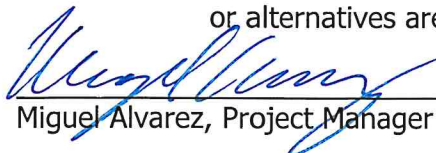
- A. The subsequent project will have no additional significant effect on the environment, as defined in subdivision (d) of Section 21158 of the Public Resources Code, that was not identified in and mitigated through the EIR.
- B. No new or additional mitigation measures or alternatives are required.
- C. The subsequent project is within the scope of the project covered by the EIR.
- D. All applicable policies, regulations, and mitigation measures identified in the EIR have been applied to the subsequent project or otherwise made conditions of approval of the subsequent project.

2.      **Mitigated Negative Declaration Required** - On the basis of the above determinations, the project is not within the scope of the Wastewater System EIR. A mitigated negative declaration will be prepared for the project. The following statements are all found to be true:

- A. The subsequent project is within the scope of the project covered by the EIR.
- B. All applicable policies, regulations, and mitigation measures identified in the EIR have been applied to the subsequent project or otherwise made conditions of approval of the subsequent project.
- C. The project will have one or more potential new significant effects on the environment that were not addressed as significant effects in the EIR. New or additional mitigation measures are being required of the project that will reduce the effects to a less-than-significant level.

3.      **Focused EIR Required**- On the basis of the above determinations, the project has new or more significant effects or requires new mitigation as compared to the Wastewater System EIR. A Focused EIR will be prepared for the project. All of the following statements are found to be true:

- A. The subsequent project is within the scope of the project covered by the EIR.
- B. All applicable policies, regulations, and mitigation measures identified in the EIR have been applied to the subsequent project or otherwise made conditions of approval of the subsequent project.
- C. The project will have one or more new significant effects on the environment that were not addressed as significant effects in the EIR. New or additional mitigation measures or alternatives are required as a result.

  
Miguel Alvarez, Project Manager

\_\_\_\_\_  
Title: Associate Civil Engineer

7-19-21  
\_\_\_\_\_  
Date

#### 4. Within the Scope Analysis of this Document:

The Wastewater System EIR allows projects to be found within the scope of the EIR if certain criteria are met. If the following statements are found to be true for all impact categories included in this Initial Study, then the proposed project is addressed by the analyses contained in the EIR and is within the scope of the EIR. Any "No" response must be discussed.

	YES	NO
(1) The lead agency for subsequent projects shall be the City of Modesto or a responsible agency identified in the Wastewater System EIR.	<input checked="" type="checkbox"/>	<input type="checkbox"/>
(2) City policies which reduce, avoid, or mitigate environmental effects will continue to be in effect and, therefore, would be applied to subsequent projects where appropriate. The policies are described in the list of policies in place and mitigation measures attached to the Initial Study template. Project impacts would be mitigated to a less-than-significant level using Wastewater System EIR mitigations only.	<input checked="" type="checkbox"/>	<input type="checkbox"/>
(3) Federal, State, regional, and Stanislaus County regulations do not change in a manner that is less restrictive on development than current law (i.e., would not offer the same level of protection assumed under the Wastewater System EIR).	<input checked="" type="checkbox"/>	<input type="checkbox"/>
(4) No specific information concerning the known or potential presence of significant resources is identified in future reports, or through formal or informal input received from responsible or trustee agencies or other qualified sources.	<input checked="" type="checkbox"/>	<input type="checkbox"/>
(5) The development will occur within the boundaries of the City's planning area as established in this Urban Area General Plan.	<input checked="" type="checkbox"/>	<input type="checkbox"/>
(6) Development within the project will comply with all appropriate mitigation measures contained and enumerated in the Wastewater System EIR.	<input checked="" type="checkbox"/>	<input type="checkbox"/>

#### Discussion:

- (1) The City of Modesto was the lead agency for the Wastewater Master Plan, the 2019 Wastewater System EIR, and is the lead agency for construction and operation of all wastewater system improvements. Each contract is approved at the sole discretion of the City Council of the City of Modesto.
- (2, 6) All relevant and appropriate policies and mitigation measures identified in the Wastewater System EIR have been applied to the construction, operation, and maintenance of the JM Pike Park Stormwater to Sanitary Cross-Connection Removal Project.
- (3) Relevant Federal, State, regional, and County regulations have not become less restrictive since the Wastewater System EIR were certified.
- (4) City staff is not aware of new information concerning the presence of significant resources in the project area.
- (5) The JM Pike Park Stormwater to Sanitary Cross-Connection Removal Project lies within the city limits/sewer service area of the City of Modesto.

#### 5. Currency of the Master EIR Document

The MEIR should be reviewed on a regular basis to determine its currency, and whether additional analysis/mitigation should be incorporated into the MEIR via a Supplemental or Subsequent EIR

(CEQA Section 21157.6). Staff has reviewed the Wastewater System Upgrades Project MEIR in light of the criteria listed below to determine whether the Master EIR is current. The analysis contained within the Master EIR is current as long as the following circumstances have not changed. Any “no” response must be explained.

		<b>YES</b>	<b>NO</b>
(1)	Certification of the Wastewater System EIR occurred less than five years prior to the filing of the application for this subsequent project.	<input checked="" type="checkbox"/>	<input type="checkbox"/>
(2)	This project is described in the EIR and the project’s approval will not affect the adequacy of the EIR for any subsequent project because the City can make the following findings:	<input checked="" type="checkbox"/>	<input type="checkbox"/>
(a)	No substantial changes have occurred with respect to the circumstances under which the EIR was certified.	<input checked="" type="checkbox"/>	<input type="checkbox"/>
(b)	No new information, which was not known and could not have been known at the time the EIR was certified as complete, has become available.	<input checked="" type="checkbox"/>	<input type="checkbox"/>
(c)	Policies remain in effect which require site-specific mitigation, and avoidance or other mitigation of impacts as a prerequisite to future development.	<input checked="" type="checkbox"/>	<input type="checkbox"/>

Discussion:

- (1) The Wastewater System EIR was certified in January 28, 2020, per Modesto City Council Resolution No. 2020-054.
- (2) The removal of storm drain cross-connections and construction of facilities to handle drainage is specifically described in the Wastewater System EIR. The project addresses the removal of cross-connections specifically as assumed in the analysis and project description of the Wastewater Master Plan.
  - (a) No substantial changes have occurred with respect to the circumstances under which the EIR was certified.
  - (b) The City of Modesto is not aware of new information relating to potential environmental impacts that was not known at the time the EIR was certified.
  - (c) All relevant mitigation measures identified in the Wastewater System EIR will be applied to the proposed project, as described below.

**IV. ENVIRONMENTAL ANALYSIS**

This Initial Study, in accordance with CEQA Guidelines 15162, discloses whether the proposed project may cause any project-specific significant effect on the environment that was not examined in the Wastewater System EIR and whether new or additional mitigation measures or alternatives may be required as a result. The Initial Study thereby documents whether or not the project is “within the scope” of the EIR.

Pursuant to CEQA Guidelines 15162, no new environmental document or findings are necessary for projects that are determined to be within the scope of the EIR. Adoption of the findings specified in Section III.1, above after completion of the Initial Study fulfills the City’s obligation in that respect.

All environmental effects cited reflect conditions resulting from the Wastewater Master Plan, as identified in the EIR.

The environmental impact analysis in the EIR for the Wastewater Master Plan is organized into subject areas. The following analysis is based on the impact analyses contained in the EIR. The EIR (and associated MMRP) identifies impacts and mitigation related to the following project components: River Trunk Realignment, Collection System, and Treatment Plant Improvements. As the current project is a subset of the Collection System projects, only those impacts and mitigations related to the Collections System are considered in this document.

## 1. AESTHETICS AND VISUAL RESOURCES

### a. Significant Effects Identified in the EIR

The EIR identifies the potential impacts on aesthetics/visual resources and the associated mitigation measures. Refer to Chapter 4 of the EIR for details.

#### Direct Impacts

Impact AES-1: *Adverse Effects on Scenic Vistas.* (Less than significant)

Impact AES-2: *Damage to Scenic Resources.* (Less than significant)

Impact AES-3: *Degradation of Visual Character or Quality of Site and Surroundings During Construction* (Less than significant with mitigation)

Mitigation Measure AES-1: Locate Staging Areas Away from Public Areas and Install Screening.

Impact AES-4: *Degradation of Visual Character or Quality of Site and Surroundings During Program Operation* (Less than Significant)

Impact AES-5: *Permanent Source of Substantial Light or Glare* (Less than Significant)

#### Cumulative Impacts

Impact CUM-1: *Cumulative Impacts on Aesthetics* (Less than Significant with Mitigation)  
(MM AES-1)

### b. EIR and/or New Mitigation Measures Applied to the Project

**MM AES-1 Locate Staging Areas Away from Public Areas and Install Screening.**

#### Discussion:

No new or additional mitigation measures or alternatives are required to reduce project impacts to a less-than-significant level.

### c. Project-Specific Effects

Chapter 4 of the Wastewater Master Plan EIR identifies the potential impacts of implementing the Wastewater Master Plan on aesthetics/visual resources. The following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not disclosed in the Wastewater Master Plan EIR.

Significance Criteria: Determination of project effects will be based on the following thresholds. The project-specific effects will be less than significant if impacts are equal to or less than impacts disclosed in the Wastewater Master Plan Master EIR. New impacts may result in new mitigation.

	Potentially Significant Impact, as Compared to EIR	No Significant Impact with EIR Mitigation	Less Than Significant or No Impact
<b>1. AESTHETICS AND VISUAL RESOURCES</b>			
1) Have a substantial adverse effect on a scenic vista.	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
2) 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 checked="" type="checkbox"/>
3) In non-urbanized areas, substantially degrade the existing visual character or quality of public views of the site and its surroundings.	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
4) 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 checked="" type="checkbox"/>

Discussion:

- 1-4) The proposed project includes installation of storm water collection facilities and a sub-surface storm water disposal facility, and will not include permanent aboveground structures.
- 1) The project is not in the vicinity of any scenic vista.
  - 2) The project is not in the vicinity of any scenic highway
  - 3) The project is within the urbanized area
  - 4) The project does not include a new lighting component

## 2. AGRICULTURAL RESOURCES

### a. Significant Effects Identified in the EIR

The Master EIR identifies the potential impacts on agricultural resources and their associated mitigation measures. Refer to Chapter 5 of the EIR for details.

#### Direct Impacts

Impact AG-1: *Convert Prime Farmland, Unique Farmland, or Farmland of Statewide Importance to Non-agricultural Use* (Significant and Unavoidable)

Impact AG-2: *Conflict with Existing Zoning for Agricultural Use or a Williamson Act Contract* (Less than Significant)

Impact AG-3: *Involve Other Changes in the Existing Environment Which, Due to Their Location or Nature, Could Result in Conversion of Farmland to Non-agricultural Use* (Less than Significant)

#### Cumulative Impacts

Impact CUM-2: *Cumulative Impacts on Agriculture* (Significant and Unavoidable)

### b. Master EIR and/or New Mitigation Measures Applied to the Project

Mitigation measures related to agricultural resources are discussed in Chapter 5 of the EIR.

#### Discussion:

No new or additional mitigation measures or alternatives are required to reduce project impacts to a less-than-significant level.

### c. Project-Specific Effects

Chapter 5 of the EIR discloses impacts of implementing the Wastewater Master Plan on agricultural resources. The following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not disclosed in the EIR.

Significance Criteria: Determination of project effects will be based on the following thresholds. The project-specific effects will be less than significant if impacts are equal to or less than impacts disclosed in the EIR. New impacts may result in new mitigation.

	Potentially Significant Impact, as Compared to EIR	No Significant Impact with EIR Mitigation	Less Than Significant or No Impact
<b>2. AGRICULTURAL RESOURCES</b>			
1) Convert Prime Farmland, Unique Farmland, or Farmland of Statewide Importance (Farmland), as	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

	<b>Potentially Significant Impact, as Compared to EIR</b>	<b>No Significant Impact with EIR Mitigation</b>	<b>Less Than Significant or No Impact</b>
shown on the maps prepared pursuant to the Farmland Mapping and Monitoring Program of the California Resources Agency, to non-agricultural use.			
2) Conflict with existing zoning for agricultural use, or a Williamson Act contract.	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
3) 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"/>

Discussion:

- (1-3) All construction would occur within existing rights-of-way and City park and would not affect farmland. The project would not provide new wastewater capacity beyond that identified in the EIR.

### 3. AIR QUALITY

#### a. Significant Effects Identified in the EIR

Chapter 6 of the EIR identifies the potential impacts on air quality and greenhouse gas emissions and the associated mitigation measures. Refer to Chapter 6 in the EIR for details, including detailed descriptions of requirements associated with each mitigation measure.

##### Direct Impacts

Impact AQ-1: **Conflict with or Obstruct Implementation of an Applicable Air Quality Plan**  
(Significant and Unavoidable)

Mitigation measures that would address construction emissions and operational emissions are discussed under Impact AQ-2.

Impact AQ-2: **Violate Any Air Quality Standard or Contribute Substantially to an Existing or Projected Air Quality Violation** (Less than Significant with Mitigation)

Mitigation Measure AQ-1: Implement SJVAPCD Regulation VIII Control Measures for Construction Emissions of PM10

Mitigation Measure AQ-2: Implement Enhanced Control Measures for Construction Emissions of PM10

Mitigation Measure AQ-3: Implement Control Measures for Operation Emissions of PM10 and for Ozone Precursors (ROG and NOx) (note: this Measure is not applicable to the current project as it is a gravity flow facility with no pumps or other mechanical equipment)

Impact AQ-4: **Expose Sensitive Receptors to Substantial Pollutant Concentrations** (Less than Significant with Mitigation)

Mitigation measures that would address construction emissions and operational emissions are discussed under Impact AQ-2.

##### Cumulative Impacts

Impact AQ-3: **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** (Significant and Unavoidable)

#### b. EIR and/or New Mitigation Measures Applied to the Project

Mitigation measures related to air quality are found in Chapter 6 of the EIR

##### Discussion:

No new or additional mitigation measures or alternatives are required to reduce project impacts to a less-than-significant level.

#### c. Project-Specific Effects

Chapter 6 of the EIR identifies the potential impacts of implementing the Wastewater Master Plan on air quality. The following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not disclosed in the EIR.

**Significance Criteria:** Determination of project effects will be based on the following thresholds. The project-specific effects will be less than significant if impacts are equal to or less than impacts disclosed in the Wastewater Master Plan Master EIR. New impacts may result in new mitigation.

	<b>Potentially Significant Impact, as Compared to MEIR</b>	<b>No Significant Impact with MEIR Mitigation</b>	<b>Less Than Significant or No Impact</b>
<b>3. AIR QUALITY</b>			
1) Conflict with or obstruct implementation of the applicable air quality plan.	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
2) 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"/>
3) Expose sensitive receptors to substantial pollutant concentrations; or create objectionable odors affecting a substantial number of people..	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
<u>Cumulative Impacts:</u> 4) 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"/>

Discussion:

- (1-2) Construction activities could contribute to existing violations of air quality standards. Mitigation Measures AQ-1 and AQ-2 will be implemented as part of the construction process. The San Joaquin Air Pollution Control District will be consulted and that agency’s recommendations will be implemented. The proposed project is a gravity-flow facility and would not result in operational emissions.
- (3) The proposed project involves storm water only and would not involve emission of objectionable odors or other toxic air contaminants. Project design includes screening and removal of trash, sediment, oil, grease, and other substances prior to entry to the infiltration facility, further precluding the possibility of generation of odor.

Cumulative Impacts:

- (4) The proposed project is designed and intended to remove stormwater from the wastewater stream and will not create any new unanticipated capacity for growth. It is a gravity flow facility and will not create any operational emissions. The project would not provide new wastewater capacity beyond that identified in the EIR.

## 4. BIOLOGICAL RESOURCES

### a. Significant Effects Identified in the EIR

Chapter 7 of the EIR identifies the potential impacts on biological resources and the associated mitigation measures. Refer to Chapter 7 of the EIR for details including detailed descriptions of requirements associated with each mitigation measure.

#### Direct Impacts

##### Impact BIO-1: *Impacts on Special-Status Plants (Less than Significant with Mitigation)*

Mitigation Measure BIO-1: Perform Focused Surveys for Special-status Plant Species.  
(Not applicable as the site does not include any grasslands, valley and foothill riparian wetlands, or vernal pools)

##### Impact BIO-2: *Impacts on Vernal Pool Branchiopods and Western Spadefoot* (Less than Significant with Mitigation)

Mitigation Measure BIO-3: Avoid Impacts on Vernal Pool Branchiopods, Western Spadefoot, and Their Habitat. (Not applicable as the site does not include any wetlands or vernal pools)

##### Impact BIO-3: *Impacts on Valley Elderberry Longhorn Beetle* (Less than Significant with Mitigation)

Mitigated through Mitigation Measures BIO 5, 6, and 7; these measures are not applicable to collection system projects such as the cross-connection reduction project.

##### Impact BIO-4: *Impacts on Special-status Fishes* (Less than Significant with Mitigation)

Not applicable to collection system projects not near waterways, such as the cross-connection reduction project.

##### Impact BIO-5: *Impacts on Western Pond Turtle* (Less than Significant with Mitigation)

Not applicable to collection system projects not near waterways, such as the cross-connection reduction project.

##### Impact BIO-6: *Impacts on Burrowing Owl* (Less than Significant with Mitigation)

Mitigation Measure BIO-9: Conduct Pre-construction Surveys for Burrowing Owls and Implement No-Work Buffer Areas If Necessary. (The EIR identifies the potential for burrowing owl associated with some program-level components occurring in in grassland or agricultural habitat. The cross connection removal project does not include any grassland or agricultural habitat.)

##### Impact BIO-7: *Impacts on Golden Eagle and Bald Eagle* (Less than Significant)

Impact BIO-8: **Impacts on Raptors, Including Special-status Species** (Less than Significant with Mitigation)

Mitigation Measure BIO-10: Avoid and Minimize Impacts on Raptors, including Special-status Species.

Mitigation Measure BIO-11: Compensate for Loss of Raptor Foraging Habitat. (Not applicable: No raptor foraging habitat currently exists on the project site)

Impact BIO-9: **Impacts on Special-status Passerine Species and Birds Protected under the MBTA** (Less than Significant with Mitigation)

Mitigation Measure BIO-12: Conduct Pre-construction Surveys for Nesting Birds and Implement No-Work Buffer Areas If Necessary. (Not applicable: applicable only to projects that take place at the Sutter and Jennings Plants, Tuolumne River and Dry Creek)

Impact BIO-10: **Impacts on Special-status Mammals** (Less than Significant)

Impact BIO-11: **Impacts on Riparian Habitat and Other Sensitive Natural Communities** (Less than Significant with Mitigation)

Not applicable as the cross connection removal project does not traverse riparian habitat or associated wetlands

Impact BIO-12: **Impacts on Federally Protected Wetlands** (Less than Significant with Mitigation)

Not applicable as the cross connection removal project is confined to upland areas.

Impact BIO-13: **Impacts on Wildlife Movement, Established Wildlife Corridors, or the Use of Native Wildlife Nursery Sites** (Less than Significant with Mitigation)

Mitigation Measure BIO-15: Install Temporary Trench Plates over Open Trenches.

Impact BIO-14: **Conflict with Local Ordinances or Policies Protecting Biological Resources** (Less than Significant with Mitigation)

Implementation of applicable mitigation measures identified above.

## **Cumulative Impacts**

Impact CUM-3: **Cumulative Impacts on Biological Resources** (Less than Significant with Mitigation)

### **b. Master EIR and/or New Mitigation Measures Applied to the Project**

Mitigation measures related to biological resources are identified and described in Chapter 7 of the EIR.

#### Discussion:

No new or additional mitigation measures or alternatives are required to reduce project impacts to a less-than-significant level.

**c. Project-Specific Effects**

Chapter 7 of the EIR identifies the potential impacts of implementing the Wastewater Master Plan on biological resources. The following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not disclosed in the EIR.

Significance Criteria: Determination of project effects will be based on the following thresholds. The project-specific effects will be less than significant if impacts are equal to or less than impacts disclosed in the Master EIR. New impacts may result in new mitigation.

	<b>Potentially Significant Impact, as Compared to MEIR</b>	<b>No Significant Impact with MEIR Mitigation</b>	<b>Less Than Significant or No Impact</b>
<b>4. BIOLOGICAL RESOURCES</b>			
1) 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 CDFW or USFWS.	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
2) Have a substantial adverse effect on any riparian habitat or other sensitive natural community identified in local or regional plans, policies, regulations or by CDFW or USFWS.	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
3) Have a substantial adverse effect on state or federally protected wetlands as defined by Section 404 of the CWA (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"/>
4) 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 checked="" type="checkbox"/>	<input type="checkbox"/>
5) 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"/>
6) 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"/>

Discussion:

- (1) The project is located within existing street rights-of-way and park. The project incorporates all identified mitigation.

- (2-3) The project is located within existing street rights-of-way and park. The site does not include nor is near to any wetlands, vernal pools, or other riparian habitat.
- (4) The project is located within existing street rights-of-way and park. Mitigation BIO-15 is incorporated into the project.
- (5) The project is located within existing street rights-of-way and park. Removal of stormwater cross-connections from sanitary is specifically envisioned in the City's plans and policies.
- (6) The project is located within existing street rights-of-way and park. No HCP, NCCP, or other approved habitat conservation plan is applicable to the project area.

## 5. CULTURAL, PALEONTOLOGICAL, AND TRIBAL CULTURAL RESOURCES

### a. Significant Effects Identified in the EIR

Chapter 8 of the EIR identifies the potential impacts on biological resources and the associated mitigation measures. Refer to Chapter 8 of the EIR for details including detailed descriptions of requirements associated with each mitigation measure.

#### Direct Impacts

Impact CR-1: *Impacts on Known Historic, Archaeological, or Tribal Resources (Less than Significant)*

Impact CR-2: *Impacts on Previously Undiscovered Archaeological Resources (Less than Significant with Mitigation)*

Mitigation Measure CR-1: Conduct Cultural Resources Awareness Training for Construction Workers Prior to Beginning Work.

Impact CR-3: *Disturb Any Human Remains, Including those Interred Outside of Dedicated Cemeteries* (Less than Significant with Mitigation)

Impact CR-4: *Impacts on Paleontological Resources* (Less than Significant with Mitigation)

Impact CR-5: *Potential for a Substantial Adverse Impact on Tribal Cultural Resources* (Less than Significant with Mitigation)

#### Cumulative Impacts

Impact CUM-4: *Cumulative Impacts on Cultural, Paleontological Resources, and Tribal Cultural Resources* (Less than Significant with Mitigation)

### b. Master EIR and/or New Mitigation Measures Applied to the Project

Mitigation measures related to biological resources are identified in Chapter 8 of the EIR.

#### Discussion:

No new or additional mitigation measures or alternatives are required to reduce project impacts to a less-than-significant level.

### c. Project-Specific Effects

Chapter 8 of the EIR identifies the potential impacts of implementing the Wastewater Master Plan on cultural, paleontological, and tribal cultural resources. The following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not disclosed in the EIR.

**Significance Criteria:** Determination of project effects will be based on the following thresholds. The project-specific effects will be less than significant if impacts are equal to or less than impacts disclosed in the Master EIR. New impacts may result in new mitigation.

	<b>Potentially Significant Impact, as Compared to MEIR</b>	<b>No Significant Impact with MEIR Mitigation</b>	<b>Less Than Significant or No Impact</b>
<b>5. CULTURAL, PALEONTOLOGICAL, AND TRIBAL CULTURAL RESOURCES</b>			
1) Cause a substantial adverse change in the significance of a historical resource as defined in Section 15064.5.	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
2) Cause a substantial adverse change in the significance of an archaeological resource pursuant to Section 15064.5.	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
3) Directly or indirectly destroy a unique paleontological resource or site or unique geologic feature.	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
4) Disturb any human remains, including those interred outside of dedicated cemeteries.	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
5) Cause a substantial adverse change in the significance of a TCR, defined in Pub. Res. Code Section 21074 as either a site, feature, place, cultural landscape that is geographically defined in terms of the size and scope of the landscape, sacred place, or object with cultural value to a California Native American Tribe, and that is: <ul style="list-style-type: none"> <li>• Listed or eligible for listing in the California Register of Historical Resources, or in a local register of historical resources as defined in Pub. Res. Code Section 345020.1(k), or</li> <li>• A resource determined by the lead agency, in its discretion and supported by substantial evidence, to be significant pursuant to criteria set forth in subdivision 37(c) of Pub. Res. Code Section 5024.1. In applying the criteria set forth in subdivision (c) of Pub. Res. Code Section 5024.1 for the purposes of this paragraph, the lead agency shall consider the significance of the resource to a California Native American tribe.</li> </ul>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

**Discussion:**

(1-5) The project is located within existing street rights-of-way and park. The potential for impact is minimal and will be mitigated by implementation of MM CR-1 and existing City policies and regulations

## 6. GEOLOGY, SOILS ,AND SEISMICITY

### a. Significant Effects Identified in the EIR

Chapter 9 of the EIR identifies the potential impacts on geology, soils, and seismicity, and the associated mitigation measures. Refer to Chapter 9 of the EIR for details including detailed descriptions of requirements associated with each mitigation measure.

#### Direct Impacts

Impact GEO-1: *Cause Damage to Facilities and Exposure of People to Hazards from Strong Seismic Events, Including Ground Shaking or Landslides* (Less than Significant)

Impact GEO-2: *Result in Risk to Property and Life from Expansive Soils* (Less than Significant)

Impact GEO-3: *Result in Substantial Soil Erosion or Loss of Topsoil* (Less than Significant)

Impact GEO-4: *Result in Subsidence, Liquefaction, or Collapse Due to Seismic Activity or an Unstable Geologic Unit or Soil* (Less than Significant)

#### Cumulative Impacts

None

### b. Master EIR and/or New Mitigation Measures Applied to the Project

No Mitigation measures were identified as required for this topic

#### Discussion:

No new or additional mitigation measures or alternatives are required to reduce project impacts to a less-than-significant level.

### c. Project-Specific Effects

Chapter 9 of the EIR identifies the potential impacts of implementing the Wastewater Master Plan on geology, soils, and seismicity. The following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not disclosed in the EIR.

Significance Criteria: Determination of project effects will be based on the following thresholds. The project-specific effects will be less than significant if impacts are equal to or less than impacts disclosed in the EIR. New impacts may result in new mitigation.

	Potentially Significant Impact, as Compared to MEIR	No Significant Impact with MEIR Mitigation	Less Than Significant or No Impact
<b>6. GEOLOGY, SOILS ,AND SEISMICITY</b>			
1) 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"/>

	<b>Potentially Significant Impact, as Compared to MEIR</b>	<b>No Significant Impact with MEIR Mitigation</b>	<b>Less Than Significant or No Impact</b>
<ul style="list-style-type: none"> <li>–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;</li> <li>–Strong seismic ground shaking;</li> <li>–Seismic-related ground failure, including liquefaction; or</li> <li>–Landslides.</li> </ul>			
2) Result in substantial soil erosion or the loss of topsoil.	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
3) 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"/>
4) 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"/>
5) 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 checked="" type="checkbox"/>

Discussion:

- (1-4) The project is located within existing park and street rights of way. The project has no potential for any of the potential geological, soils, or seismic impacts beyond those identified in the EIR and determined to be less than significant.
- 5) The project is within the area served by the Modesto sanitary sewer system but does not provide for any uses generating wastewater.

## 7. GREENHOUSE GAS EMISSIONS AND ENERGY RESOURCES

### a. Significant Effects Identified in the EIR

Chapter 10 of the MEIR identifies the potential impacts on greenhouse gas emissions and energy resources and the associated mitigation measures. Refer to Chapter 10 in the EIR for details.

#### Impacts

Impact GHG-1: **Generate a Substantial Amount of GHG Emissions** (Significant and Unavoidable)

Impact GHG-2: **Conflict with an Applicable Plan, Policy, or Regulation Adopted for the Purpose of Reducing Emissions of GHGs** (Significant and Unavoidable)

Impact GHG-3: **Cause Wasteful, Inefficient, and Unnecessary Consumption of Energy During Construction, Operation, and/or Maintenance** (Less than Significant)

Impact GHG-4: **Cause a Substantial Increase in Energy Demand and the Need for Additional Energy Resources** (Less than Significant)

### b. EIR and/or New Mitigation Measures Applied to the Project

Mitigation measures related to greenhouse gas emissions and energy resources are found in Chapter 10 of the EIR (no mitigation measures).

#### Discussion:

No new or additional mitigation measures or alternatives are required to reduce project impacts to a less-than-significant level.

### c. Project-Specific Effects

Chapter 10 of the EIR identifies the potential impacts of implementing the Wastewater Master Plan on greenhouse gas emissions and energy resources. The following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not disclosed in the EIR.

Significance Criteria: Determination of project effects will be based on the following thresholds. The project-specific effects will be less than significant if impacts are equal to or less than impacts disclosed in the EIR. New impacts may result in new mitigation.

	Potentially Significant Impact, as Compared to MEIR	No Significant Impact with MEIR Mitigation	Less Than Significant or No Impact
<b>7. GREENHOUSE GAS EMISSIONS AND ENERGY RESOURCES</b>			
1) Generate a substantial amount of GHG emissions	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
2) Conflict with an applicable plan, policy, or regulation adopted for the purpose of reducing	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

emissions of GHGs.			
3) Cause wasteful, inefficient, and unnecessary consumption of energy during construction or operation.	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
4) Cause a substantial increase in energy demand and the need for additional energy resources.	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

Discussion:

- (1-2) The proposed project is a gravity-flow facility and would not result in energy use during operation. Construction will be subject to best-practice policies and regulations. The project is consistent with the adopted Wastewater Master Plan and will not result in any new additional emissions.
- (3-4) The proposed project is a gravity-flow facility and would not result in energy use during operation. Construction will be subject to best-practice policies and regulations.

## 8. HAZARDS AND HAZARDOUS MATERIALS

### a. Significant Effects Identified in the Master EIR

The EIR identifies the potential impacts related to hazards and hazardous materials and the associated mitigation measures, and the EIR incorporates this discussion into Chapter 11, Hazards and Hazardous Materials. Refer to Chapter 11 of the EIR for details.

#### Direct Impacts

- Impact HAZ-1: ***Create a Substantial Hazard to the Public or the Environment through the Routine Transport, Use, or Disposal of Hazardous Materials during Construction*** (Less than Significant)
- Impact HAZ-2: ***Create a Substantial Hazard to the Public or the Environment through the Routine Transport, Use, or Disposal of Hazardous Materials during Operation*** (Less than Significant)
- Impact HAZ-3: ***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 during Construction*** (Less than Significant)
- Impact HAZ-4: ***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 during Operation*** (Less than Significant)
- Impact HAZ-5: ***Emit Hazardous Emissions or Handle Hazardous or Acutely Hazardous Materials, Substances, or Waste within 0.25 Mile of an Existing or Proposed School*** (Less than Significant)
- Impact HAZ-6: ***Location 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, Create a Significant Hazard to the Public or the Environment*** (Less than Significant)
- Impact HAZ-7: ***Location in an Airport Land Use Plan or within 2 Miles of a Public Airport, Resulting in a Safety Hazard for People Residing or Working in the Program Area*** (Less than Significant)
- Impact HAZ-8: ***Impair Implementation of or Physically Interfere with an Adopted Emergency Response Plan or Emergency Evacuation Plan*** (Less than Significant)
- Impact HAZ-9: ***Expose People or Structures, either directly or indirectly, to a Significant Risk of Loss, Injury, or Death Involving Wildland Fires*** (No Impact)

#### Cumulative Impacts

None

### b. Master EIR and/or New Mitigation Measures Applied to the Project

Mitigation measures related to hazard and hazardous materials appear in Chapter 11 of EIR (no mitigation measures).

Discussion:

No new or additional mitigation measures or alternatives are required to reduce project impacts to a less-than-significant level.

**c. Project-Specific Effects**

Section IV.J of the Wastewater Master Plan MEIR identifies the potential impacts of implementing the Wastewater Master Plan on public health and safety related to hazardous materials. The following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not disclosed in the Wastewater Master Plan MEIR.

Significance Criteria: Determination of project effects will be based on the following thresholds. The project-specific effects will be less than significant if impacts are equal to or less than impacts disclosed in the Wastewater Master Plan Master EIR. New impacts may result in new mitigation.

	<b>Potentially Significant Impact, as Compared to MEIR</b>	<b>No Significant Impact with MEIR Mitigation</b>	<b>Less Than Significant or No Impact</b>
<b>8. HAZARDS AND HAZARDOUS MATERIALS</b>			
1) 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"/>
2) 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"/>
3) 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.	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
4) 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, the project would result in a safety hazard or excessive noise for people residing or working in the project area.	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
5) 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"/>
6) Expose people or structures, either directly or indirectly, 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"/>

Discussion:

- (1-2) The proposed project will not employ hazardous materials. No impact is expected and no mitigation is necessary.
- (3) The project is not proposed on a 65962.5 site.
- (4) The project does not include above-ground features above one-story in height.
- (5) The project will not result in any changes to emergency routes or affect any emergency response or evacuation plan.
- (6) The project is not in or adjacent to any wildland.

## 9. HYDROLOGY AND WATER QUALITY

### a. Significant Effects Identified in the Master EIR

Chapter 12 of the EIR identifies the potential impacts on hydrology and water quality and the associated mitigation measures. Refer to Chapter 12 the EIR for details.

#### Direct Impacts

*Impact HYD/WQ-1: **Violate Any Water Quality Standards or Waste Discharge Requirements or Otherwise Degrade Water Quality during Construction (Less than Significant with Mitigation)***

*Mitigation Measure HYD/WQ-1: **Prepare and Implement a Frac-Out Contingency Plan for Trenchless Pipeline Installation Methods.*** (not applicable to the class of projects including stormwater cross connection removal).

*Impact HYD/WQ-2: **Violate Any Water Quality Standards or Waste Discharge Requirements or Otherwise Degrade Water Quality during Operation*** (Less than Significant)

*Impact HYD/WQ-3: **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*** (Less than Significant)

*Impact HYD/WQ-4: **Substantially Alter the Existing Drainage Pattern of the Site or Area Such as to Result in Substantial Erosion, Siltation, or Flooding On-or Off-Site*** (Less than Significant)

*Impact HYD/WQ-5: **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*** (Less than Significant)

*Impact HYD/WQ-6: **Place Within a 100-year Flood Hazard Area Structures Which Would Impede or Redirect Flood Flows*** (Less than Significant with Mitigation)

*Impact HYD/WQ-7: **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*** (Less than Significant)

#### Cumulative Impacts

*Impact CUM-5: **Cumulative Impacts on Hydrology and Water Quality*** (Less than Significant with Mitigation)

### b. Master EIR and/or New Mitigation Measures Applied to the Project

#### Discussion:

No new or additional mitigation measures or alternatives are required to reduce project impacts to a less-than-significant level.

### c. Project-Specific Effects

Chapter 12 of the EIR identifies the potential impacts of implementing the Wastewater Master Plan on hydrology and water quality. The following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not disclosed in the EIR.

Significance Criteria: Determination of project effects will be based on the following thresholds. The project-specific effects will be less than significant if impacts are equal to or less than impacts disclosed in the Master EIR. New impacts may result in new mitigation.

	<b>Potentially Significant Impact, as Compared to MEIR</b>	<b>No Significant Impact with MEIR Mitigation</b>	<b>Less Than Significant or No Impact</b>
<b>9. HYDROLOGY AND WATER QUALITY</b>			
1) Violate any water quality standards or waste discharge requirements.	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
2) Substantially deplete groundwater supplies or interfere substantially with ground-water 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 checked="" type="checkbox"/>
3) 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"/>
4) Create or contribute runoff water which would exceed the capacity of existing or planned stormwater drainage systems or provide substantial additional sources of polluted runoff or otherwise substantially degrade water quality.	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
5) 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 checked="" type="checkbox"/>
6) Place within a 100-year flood hazard area structures which would impede or redirect flood flows.	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
7) 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 or inundation by seiche, tsunami, or mudflow.	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

	<b>Potentially Significant Impact, as Compared to MEIR</b>	<b>No Significant Impact with MEIR Mitigation</b>	<b>Less Than Significant or No Impact</b>
8) The project would include construction activities within the San Joaquin River channel and on nearby levees and would include placement of a permanent structure in the San Joaquin River channel. These activities could affect river flow patterns and degrade water quality.	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

Discussion:

- (1) The proposed project is for removal of stormwater cross connections to the sanitary sewer system and provides for retention of stormwater the site is not adjacent to or connected to any waterway.
- (2) The project would not use groundwater resources and would contribute to groundwater recharge.
- (3) The project will not alter any existing drainage pattern with potential for erosion or siltation.
- (4) This project will eliminate cross-connections with the storm water drainage system. The project design provides for an alternate system of storm water disposal of better effectiveness than the existing system
- (5-7) No housing or other structures will be constructed in connection with the project.
- (8) The project is not within or in proximity to the San Joaquin River channel.

**10. LAND USE AND PLANNING**

**a. Significant Effects Identified in the Master EIR**

Chapter 13 of the EIR identifies the potential impacts on land use and planning and their associated mitigation measures. Refer to Chapter 13 of the EIR for details.

**Direct Impacts**

Impact LU-1: *Divide an Established Community* (Less than Significant)

Impact LU-2: *Conflict with Land Use Plans, Policies, or Regulations Adopted for the Purpose of Avoiding or Mitigating an Environmental Effect* (Less than Significant)

**Cumulative Impacts**

None

**b. Master EIR and/or New Mitigation Measures Applied to the Project**

No mitigation measures related to land use, plans, and policies are proposed in the Master EIR.

Discussion:

There are no mitigation measures proposed in the Master EIR because no significant impacts on land use were identified. No new or additional mitigation measures or alternatives are required to reduce project impacts to a less-than-significant level.

**c. Project-Specific Effects**

Chapter 13 of the EIR identifies the potential impacts of implementing the Wastewater System Update on land use and planning. The following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not disclosed in the EIR.

Significance Criteria: Determination of project effects will be based on the following thresholds. The project-specific effects will be less than significant if impacts are equal to or less than impacts disclosed in the EIR. New impacts may result in new mitigation.

	Potentially Significant Impact, as Compared to MEIR	No Significant Impact with MEIR Mitigation	Less Than Significant or No Impact
<b>10. LAND USE AND PLANNING</b>			
1) Physically divide an established community.	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
2) Cause a significant environmental impact due to a conflict with any land use plan, policy, or	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

	<b>Potentially Significant Impact, as Compared to MEIR</b>	<b>No Significant Impact with MEIR Mitigation</b>	<b>Less Than Significant or No Impact</b>
regulation adopted for the purpose of avoiding or mitigating an environmental effect.			

Discussion:

- (1) All proposed facilities are underground, to include an underground storm drainage retention/disposal facility in JM Park and piping to convey the storm water to the facility. The park site will be returned to its park use at the completion of construction resulting in no change to the established community.
- (2) The proposed project is construction of a subsurface storm drain basin and removal of storm drain cross-connections to the wastewater system, consistent with existing adopted plans and policies. No land use is altered by the project.

## 11. NOISE AND VIBRATION

### a. Significant Effects Identified in the EIR

Chapter 14 of the EIR identifies the potential impacts on noise and vibration and the associated mitigation measures. Refer to EIR Chapter 14 for details.

#### Direct Impacts

Impact NOI-1: ***Expose Persons to Noise Levels in Excess of Standards Established in a Local General Plan or Noise Ordinance or in the Applicable Standards of Other Agencies*** (Less than Significant with Mitigation)

Mitigation Measure NOI-1: **Employ Noise-Reducing Construction and Maintenance Practice**

Mitigation Measure NOI-2: **Limit Nighttime Construction Noise.**

Mitigation Measure NOI-3: **Prepare Project-level Noise Analysis for Operation of Proposed Sutter Plant Components.** (Not applicable, applies only to Sutter Plant projects)

Mitigation Measure NOI-4: **Employ Noise-Reducing Methods During Operations.** (note that the project is gravity flow and will not include any noise-producing operational activities with the exception of occasional maintenance)

Impact NOI-2: ***Expose Persons to Excessive Groundborne Vibration or Groundborne Noise Levels*** (Less than Significant with Mitigation)

Mitigation Measure NOI-5: **Implement Vibration Reduction Measures.**

Impact NOI-3: ***Substantial Permanent Increase in Ambient Noise Levels in the Project Vicinity Above Levels Existing Without the Proposed Program*** (Less than Significant with Mitigation) (not applicable to cross-connection removal projects)

Impact NOI-4: ***Substantial Temporary or Periodic Increase in Ambient Noise Levels in the Project Vicinity Above Levels Existing Without the Proposed Program*** (Significant and Unavoidable)

Impact NOI-5: ***Expose People Residing or Working in the Program Area to Excessive Noise Levels Associated with a Public Airport*** (Less than Significant)

#### Cumulative Impacts

Impact CUM-6: ***Cumulative Impacts related to Noise and Vibration*** (Significant and Unavoidable)

### b. Master EIR and/or New Mitigation Measures Applied to the Project

Mitigation measures related to noise and vibration appear and are detailed in Chapter 14 of the EIR.

Discussion:

No new or additional mitigation measures or alternatives are required to reduce project impacts to a less-than-significant level.

**c. Project-Specific Effects**

Chapter 14 of the EIR identifies the potential impacts of implementing the Wastewater Master Plan on noise and vibration. The following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not disclosed in the EIR.

Significance Criteria: Determination of project effects will be based on the following thresholds. The project-specific effects will be less than significant if impacts are equal to or less than impacts disclosed in the EIR. New impacts may result in new mitigation.

	<b>Potentially Significant Impact, as Compared to MEIR</b>	<b>No Significant Impact with MEIR Mitigation</b>	<b>Less Than Significant or No Impact</b>
<b>11. NOISE AND VIBRATION</b>			
1) Expose persons to or generate a substantial temporary or permanent increase in ambient noise levels in the project vicinity 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"/>
2) Expose persons to or generate excessive ground borne vibration or ground borne noise levels.	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
3) Substantially permanently increase ambient noise levels in the project vicinity above levels existing without the project.	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
4) Substantially temporarily or periodically increase ambient noise levels in the project vicinity above levels existing without the project	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
5) 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, expose people residing or working in the project area to excessive noise levels; or for a project within the vicinity of a private airstrip, expose people residing or working in the project area to excessive noise levels.			

Discussion:

(1, 4) Construction of the project would increase noise levels in the surrounding neighborhood for the duration of construction (about 35 weeks, depending on weather). The noisiest activities will be limited, but could occur at any time during the construction period. Mitigation Measures NOI-1 and NOI-2 will be implemented in order to reduce construction noise impacts

- (2) Construction of the project would potentially increase vibration levels in the surrounding neighborhood during portions of of construction (about 35 weeks, depending on weather). Such activities will be limited, but could occur at any time during the construction period. Mitigation Measure NOI-5 will be implemented to reduce this impact.
- (3) The project facilities during operation will not generate noise or vibration. Maintenance and operation of the project will require infrequent periodic site visits by staff. This impact is not significant and no mitigation is necessary.
- (5) The project is not within the noise contours of a public or private airport.

## 12. POPULATION AND HOUSING

### a. Significant Effects Identified in the EIR

Chapter 14 of the EIR identifies the potential impacts on population and housing and their associated mitigation measures. Refer to Chapter 14 of the EIR for details.

#### Direct Impacts

Impact PH-1: ***Induce Substantial Unplanned Population Growth, Both Directly and Indirectly, during Construction*** (Less than Significant)

Impact PH-2: ***Displace Substantial Numbers of People or Existing Housing, Necessitating the Construction of Replacement Housing Elsewhere*** (No Impact)

Impact PH-3: ***Long-term Inducement of Unplanned Substantial Population Growth, Both Directly and Indirectly*** (Less than Significant with Mitigation)

#### Cumulative Impacts

None

### b. Master EIR and/or New Mitigation Measures Applied to the Project

No mitigation measures related to land use, plans, and policies are proposed in the Master EIR.

#### Discussion:

There are no mitigation measures proposed in the Master EIR because no significant impacts on land use were identified. No new or additional mitigation measures or alternatives are required to reduce project impacts to a less-than-significant level.

### c. Project-Specific Effects

Chapter 13 of the EIR identifies the potential impacts of implementing the Wastewater System Update on land use and planning. The following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not disclosed in the EIR.

Significance Criteria: Determination of project effects will be based on the following thresholds. The project-specific effects will be less than significant if impacts are equal to or less than impacts disclosed in the EIR. New impacts may result in new mitigation.

	Potentially Significant Impact, as Compared to MEIR	No Significant Impact with MEIR Mitigation	Less Than Significant or No Impact
<b>12. POPULATION AND HOUSING</b>			
1) Induce substantial unplanned 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 checked="" type="checkbox"/>
2) Displace substantial numbers of existing housing, necessitating the construction of replacement housing elsewhere.	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
3) Displace substantial numbers of people, necessitating the construction of replacement housing elsewhere.	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

Discussion:

(1-3) The proposed project is construction of a subsurface storm drain basin and removal of storm drain cross-connections to the wastewater system, consistent with existing adopted plans and policies. No effect on population growth, or displacement of housing or people is expected as a result.

## 13. TRANSPORTATION AND TRAFFIC

### a. Significant Effects Identified in the Master EIR

Chapter 16 of the EIR identifies the potential impacts on transportation and traffic and the associated mitigation measures. Refer to Chapter 16 in the EIR for details.

#### Direct Impacts

Impact TR-1: ***Conflict with Applicable Circulation Plans, Ordinances, or Policies Establishing Measures of Effectiveness for the Performance of the Circulation System*** (Less than Significant)

Impact TR-2: ***Conflict with an Applicable Congestion Management Program*** (Less than Significant)

Impact TR-3: ***Substantially Increase Hazards Due to a Design Feature or Incompatible Uses*** (Less than Significant)

Impact TR-4: ***Result in Inadequate Emergency Access*** (Less than Significant)

Impact TR-5: ***Conflict with Adopted Policies, Plans, or Programs Regarding Public Transit, Bicycle, or Pedestrian Facilities, or Otherwise Decrease the Performance or Safety of Such Features*** (Less than Significant)

#### Cumulative Impacts

Impact CUM-7: ***Cumulative Impacts related to Transportation and Traffic*** (Less than Significant)

### b. Master EIR and/or New Mitigation Measures Applied to the Project

No Mitigation measures related to transportation and traffic required in the EIR.

#### Discussion:

No new or additional mitigation measures or alternatives are required to reduce project impacts to a less-than-significant level.

### c. Project-Specific Effects

Chapter 16 of the EIR identifies the potential impacts of implementing the Wastewater Master Plan on transportation and traffic. The following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not disclosed in the EIR.

Significance Criteria: Determination of project effects will be based on the following thresholds. The project-specific effects will be less than significant if impacts are equal to or less than impacts disclosed in the EIR. New impacts may result in new mitigation.

	Potentially Significant Impact, as Compared to MEIR	No Significant Impact with MEIR Mitigation	Less Than Significant or No Impact
<b>13. TRANSPORTATION AND TRAFFIC</b>			
1) Conflict with an applicable plan, ordinance or policy establishing measures of effectiveness for the performance of the circulation system, taking into account all modes of transportation including mass transit and non-motorized travel and 18relevant components of the circulation system, including but not limited to intersections, streets, highways and freeways, pedestrian and bicycle paths, and mass transit	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
2) Conflict with an applicable congestion management program, including, but not limited to level of service standards and travel demand measures, or other standards established by the county congestion management agency for designated roads or highways.	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
3) 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 checked="" type="checkbox"/>
4) 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"/>
5) Result in inadequate emergency access.	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
6) Conflict with adopted policies, plans, or programs regarding public transit, bicycle, or pedestrian facilities, or otherwise decrease the performance or safety of such features.	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

Discussion:

(1, 2, 4-6) The project will not make any permanent modification to roadways, pedestrian or bicycle facilities, or mass transit.

(4) The project will not affect air traffic patterns.

## 14. UTILITIES AND SERVICE SYSTEMS

### a. Significant Effects Identified in the Master EIR

Chapter 17 of the EIR identifies the potential impacts on utilities and service systems and the associated mitigation measures. Refer to Chapter 17 in the EIR for details.

#### Direct Impacts

Impact UTL-1: **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** (Less than Significant)

Impact UTL-2: **Require New or Expanded Water Supply Entitlements** (No Impact)

Impact UTL-3: **Require Additional Permitted Landfill Capacity to Accommodate the Project's Solid Waste Disposal Needs** (Less than Significant)

Impact UTL-4: **Comply with Federal, State, and Local Statutes and Regulations Related to Solid Waste** (Less than Significant)

#### Cumulative Impacts

Impact CUM-8: **Cumulative Impacts on Utilities and Service Systems** (Beneficial)

### b. Master EIR and/or New Mitigation Measures Applied to the Project

No Mitigation measures related to utilities and service systems required in the EIR.

#### Discussion:

No new or additional mitigation measures or alternatives are required to reduce project impacts to a less-than-significant level.

### c. Project-Specific Effects

Chapter 17 of the EIR identifies the potential impacts of implementing the Wastewater Master Plan on utilities and service systems. The following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not disclosed in the EIR.

Significance Criteria: Determination of project effects will be based on the following thresholds. The project-specific effects will be less than significant if impacts are equal to or less than impacts disclosed in the EIR. New impacts may result in new mitigation.

	Potentially Significant Impact, as Compared to MEIR	No Significant Impact with MEIR Mitigation	Less Than Significant or No Impact
<b>14. UTILITIES AND SERVICE SYSTEMS</b>			
1) Exceed wastewater treatment requirements of	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

	<b>Potentially Significant Impact, as Compared to MEIR</b>	<b>No Significant Impact with MEIR Mitigation</b>	<b>Less Than Significant or No Impact</b>
the applicable RWQCB.			
2) Require or result in the construction of new or expanded 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 checked="" type="checkbox"/>
3) 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 checked="" type="checkbox"/>
4) Have sufficient water supplies available to serve the Program and reasonably foreseeable future development during normal, dry and multiple dry years.	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
5) Result in a determination by the wastewater treatment provider which serves or may serve the Program that it has adequate capacity to serve the Program's projected demand in addition to the provider's existing commitments.	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
6) Generate solid waste in excess of State or local standards, or in excess of the capacity of local infrastructure, or otherwise impair the attainment of solid waste reduction goals.	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
7) Comply with federal, state, and local management and reduction statutes and regulations related to solid waste	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

Discussion:

(1, 2, 5) The project will remove storm drain cross connections and reduce wastewater flows.

(3) The project is does not require any additional stormwater facilities beyond its boundaries.

(4) The project does not require any use of water supplies.

(6, 7) Operation of the project will not generate solid waste.

▪.

## **V. MITIGATION MEASURES APPLIED TO THE PROPOSED PROJECT**

If the Initial Study results in the determination that a Finding of Conformance can be adopted for the proposed project Section A below applies. If the Initial Study results in the determination that a Finding of Conformance cannot be adopted and a Mitigated Negative Declaration/EIR must be prepared for the project then Section B, below applies.

### **A. EIR Mitigation Measures Applied to the Project**

Pursuant to Public Resources Code Section 21157.1(c), in order for a Finding of Conformance to be made, all appropriate mitigation measures from the Master EIR shall be incorporated into the proposed project. Urban Area General Plan Policies/Master EIR mitigation measures shall be made part of the proposed project prior to approval by means of conditions of project approval or incorporation into the appropriate document or plan.

All applicable and appropriate mitigation measures have been applied to the project (see mitigation measures listed below). Please refer to the EIR and associated Mitigation Monitoring and Reporting Program for detailed description of applicable mitigation measures. Note that the EIR details numerous existing policies and regulations applicable to the development of projects under the Wastewater Plan, while not mitigation measures pursuant to the EIR they establish the baseline for analysis of impacts and are applicable to the project, which will be developed in accordance with them.

### **B. New or Additional Mitigation Measures or Alternatives Required**

Where the project's effects would exceed the significance criteria for each environmental impact category, a mitigated negative declaration or Focused EIR must be prepared. Staff has reviewed the project against the significance criteria thresholds established in the Master EIR for all impact categories in this Initial Study. No new or additional mitigation measures are required.

Master EIR Mitigation Measures:

#### **1. Aesthetics and Visual Resources**

Mitigation Measure AES-1: Locate Staging Areas Away from Public Areas and Install Screening.

#### **2. Agricultural Resources**

None

#### **3. Air Quality**

Mitigation Measure AQ-1: Implement SJVAPCD Regulation VIII Control Measures for Construction Emissions of PM10

Mitigation Measure AQ-2: Implement Enhanced Control Measures for Construction Emissions of PM10

#### **4. Biological Resources**

Mitigation Measure BIO-10: Avoid and Minimize Impacts on Raptors, including Special-status Species.

Mitigation Measure BIO-15: Install Temporary Trench Plates over Open Trenches.

#### **5. Cultural, Paleontological, and Tribal Cultural Resources**

Mitigation Measure CR-1: Conduct Cultural Resources Awareness Training for Construction Workers Prior to Beginning Work.

#### **6. Geology, Soils, and Seismicity**

None

#### **7. Greenhouse Gas Emissions and Energy Resources**

None

#### **8. Hazards and Hazardous Materials**

None

#### **9. Hydrology and Water Quality**

None

#### **10. Land Use and Planning**

None

#### **11. Noise**

Mitigation Measure NOI-1: Employ Noise-Reducing Construction and Maintenance Practice

Mitigation Measure NOI-2: Limit Nighttime Construction Noise.

Mitigation Measure NOI-4: Employ Noise-Reducing Methods During Operations.

Mitigation Measure NOI-5: Implement Vibration Reduction Measures.

#### **12. Population and Housing**

None

#### **13. Transportation and Traffic**

None

## **14. Utilities and Service Systems**

None

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2022-280**

**RESOLUTION APPROVING A GRANT AGREEMENT FOR \$10,000,000 WITH STATE WATER RESOURCES CONTROL BOARD TO RECEIVE THE PROPOSITION 1 ROUND 2 STORMWATER GRANT FOR THE JM PIKE PARK STORMWATER TO SANITARY SEWER CROSS CONNECTION REMOVAL; AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE ALL GRANT-RELATED DOCUMENTS AND ENTER INTO AN AGREEMENT TO RECEIVE THE GRANT FUNDS, WHEN AWARDED; AND AUTHORIZING THE DIRECTOR OF FINANCE TO BE THE SIGNATORY OF GRANT INVOICE FORMS DURING REQUESTS FOR REIMBURSEMENTS**

WHEREAS, the purpose of the JM Pike Park Stormwater to Sanitary Cross Connection Removal Project (Pike Park) project is to remove direct connections of storm drain runoff to the sanitary sewer system and provide necessary storm drain improvements resulting from the removal of the cross connections, and

WHEREAS, the City of Modesto's JM Pike Park Stormwater to Sanitary Cross Connection Removal Project proposes to capture, treat, and infiltrate stormwater runoff to augment groundwater supplies, reduce flood-related damage, and improve the quality of stormwater runoff percolating to the underlying groundwater basin, and

WHEREAS, Proposition 1, provides funds for grants to local public agencies for water supply projects including stormwater capture, and

WHEREAS, staff applied for the 2014 Water Bond Proposition 1 Grant to fund the final design and construction of the JM Pike Park Stormwater to Sanitary Cross Connection Removal Project, and

WHEREAS, the JM Pike Park Stormwater to Sanitary Cross Connection Removal Project encompasses all of the requirements of the grant with an emphasis on groundwater recharge, and

WHEREAS, the JM Pike Park project will utilize Low Impact Development principles and components to remove and store stormwater runoff, and

WHEREAS, the project benefits a local disadvantaged neighborhood by reducing localized street flooding and restoring a local City park where the storm runoff volume will be stored underground, and

WHEREAS, the Prop 1 Grant agreement with the State Water Resource Control Board was signed and executed on April 29, 2022.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it approves a grant agreement for \$10,000,000 with State Water Resources Control Board to receive the 2014 Proposition 1 Grant for the JM Pike Park Stormwater to Sanitary Cross Connection Removal Project.

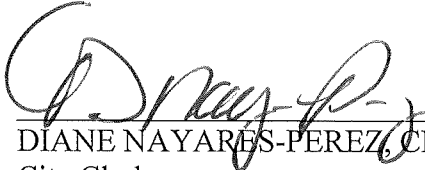
BE IT FURTHER RESOLVED by the Council of the City of Modesto that it agrees and authorizes the City Manager, or his designee, to execute all grant-related documents and enter into an agreement to receive the grant funds, if awarded; and authorizing the Director of Finance to be the signatory of grant invoice forms during requests for reimbursements.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 14th day of June, 2022, by Councilmember Wright, who moved its adoption, which motion being duly seconded by Councilmember Escutia-Braaton, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Escutia-Braaton, Madrigal, Ricci,  
Wright, Mayor Zwahlen

NOES: Councilmembers: None

ABSENT: Councilmembers: Kenoyer

ATTEST:   
DIANE NAYARES-PEREZ, CMC,  
City Clerk

(SEAL)

APPROVED AS TO FORM:

BY:   
JOSE M. SANCHEZ, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2022-281**

**RESOLUTION APPROVING AN AGREEMENT WITH WOODARD AND CURRAN INC., SACRAMENTO, CA, FOR ENGINEERING DESIGN SERVICES FOR THE JM PIKE PARK STORMWATER TO SANITARY SEWER CROSS CONNECTION REMOVAL AND WATER MAIN PROJECT IN THE AMOUNT \$1,914,421 FOR THE IDENTIFIED SCOPE OF SERVICES, PLUS \$191,443 IN ADDITIONAL SERVICES, IF NEEDED, FOR A TOTAL AMOUNT NOT TO EXCEED \$2,105,864, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE AGREEMENT**

WHEREAS, the purpose of the JM Pike Park Stormwater to Sanitary Sewer Cross Connection Removal and Water Main Project (Pike Park) is to remove direct connections of storm drain runoff to the sanitary sewer system and provide necessary storm drain improvements resulting from the removal of the cross connections, and

WHEREAS, the City of Modesto's JM Pike Park Stormwater to Sanitary Sewer Cross Connection Removal and Water Main Project proposes to capture, treat, and infiltrate stormwater runoff to augment groundwater supplies, reduce flood-related damage, and improve the quality of stormwater runoff percolating to the underlying groundwater basin, and

WHEREAS, the City of Modesto's JM Pike Park Project will also strengthen and replace the water infrastructure, and

WHEREAS, the City Water Division has identified this area as having an aged and undersized water system prone to frequent maintenance issues such as low pressures and leaks, and

WHEREAS, mains and services are located in alleys and need to be relocated to the streets for easier maintenance, and

WHEREAS, in accordance with Modesto Municipal Code 8-3.204(a) Exceptions to Formal Bidding Requirements, this agreement is for professional services and,

therefore, exempt from the bid requirement, however, staff proceeded through an RFP process pursuant to Administrative Directive 3.1.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves an Agreement with Woodard & Curran, Inc., Sacramento, CA for Final Design Services for the JM Pike Park Stormwater to Sanitary Sewer Cross Connection Removal and Water Main Project, in an amount not to exceed \$1,914,421 for the identified scope of services plus \$191,443 in additional services, if needed, for a total amount not to exceed \$2,105,864.


BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to execute the Agreement in a form approved by the City Attorney.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 14th day of June, 2022, by Councilmember Wright, who moved its adoption, which motion being duly seconded by Councilmember Escutia-Braaton, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Escutia-Braaton, Madrigal, Ricci,  
Wright, Mayor Zwahlen

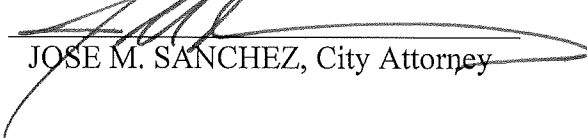
NOES: Councilmembers: None

ABSENT: Councilmembers: Kenoyer

ATTEST:   
DIANE NAYARES-PEREZ, CMC,  
City Clerk

(SEAL)

APPROVED AS TO FORM:

BY:   
JOSE M. SANCHEZ, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2022-282**

**RESOLUTION AMENDING THE FISCAL YEAR 2022/23 CAPITAL  
IMPROVEMENT PROGRAM BUDGET IN THE AMOUNT OF \$9,101,535 TO  
BE TRANSFERRED INTO THE PROJECTS 101313 AND 100851 FROM  
WASTEWATER AND WATER FUND RESERVES IN ORDER TO FULLY FUND  
THE JM PIKE PARK STORMWATER TO SANITARY SEWER CROSS  
CONNECTION REMOVAL AND WATER MAIN PROJECT**

WHEREAS, certain budgetary transactions are necessary in the amount of \$9,101,535, in order to fully fund the JM Pike Park Stormwater to Sanitary Sewer Cross Connection Removal and Water Main Project, and

WHEREAS, the Fiscal Year 2022/23 Capital Improvement Program budget must be amended.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the amendment of the Fiscal Year 2022/23 Capital Improvement Program Budget in the amount of \$9,101,535.


BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to implement the provisions of this resolution.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 14th day of June, 2022, by Councilmember Wright, who moved its adoption, which motion being duly seconded by Councilmember Escutia-Braaton, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Escutia-Braaton, Madrigal, Ricci,  
Wright, Mayor Zwahlen

NOES: Councilmembers: None

ABSENT: Councilmembers: Kenoyer

ATTEST:   
DIANE NAYARES-PEREZ, CMC,  
City Clerk

(SEAL)

APPROVED AS TO FORM:

BY:   
JOSE M. SANCHEZ, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2022-283**

**RESOLUTION APPROVING A SIXTH AMENDMENT TO THE LEGAL SERVICES AGREEMENT WITH LIEBERT CASSIDY WHITMORE IN THE AMOUNT OF \$5,500 FOR A TOTAL AGREEMENT AMOUNT NOT TO EXCEED \$493,000 AND AUTHORIZING THE CITY MANAGER OR HIS DESIGNEE, TO EXECUTE THE AGREEMENT**

WHEREAS, Liebert Cassidy Whitmore currently represents the City in labor and employment matters; and

WHEREAS, in July 2020, Liebert Cassidy Whitmore was assigned a new litigation matter, which has recently concluded; and

WHEREAS, an increase to the agreement budget in the amount of \$5,500, will provide final payment for legal services under the Agreement; and

WHEREAS, the City Attorney's office has drafted a Sixth Amendment to the Legal Services agreement with Liebert Cassidy Whitmore.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves a Sixth Amendment to the Legal Services Agreement with Liebert Cassidy Whitmore in the amount of \$5,500, for a total amount not to exceed \$493,000, as provided in **Exhibit A attached** hereto and incorporated herein, and further authorizes the City Attorney to execute such agreement in a form substantially similar to **Exhibit A**.

BE IT FURTHER RESOLVED, that the City Manager or his designee, are hereby authorized to execute the agreement, in a form approved by the City Attorney.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 28th day of June, 2022, by Councilmember Kenoyer, who moved its adoption, which motion being duly seconded by Councilmember Wright, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Escutia-Braaton, Kenoyer, Madrigal, Ricci, Wright, Mayor Zwahlen

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST:   
DIANE NAYARES-PEREZ, CMC,  
City Clerk

(SEAL)

APPROVED AS TO FORM:

BY:   
JOSE M. SANCHEZ, City Attorney

## SIXTH AMENDMENT TO LEGAL SERVICES AGREEMENT

This Sixth Amendment for Legal Services (this “**Sixth Amendment**”), is made and entered into on 28th day of June 2022 (“**Effective Date**”), by and between the **CITY OF MODESTO**, a California Municipal Corporation (“**City**”), and **LIEBERT CASSIDY WHITMORE**, (“**Attorney**”), located at 5250 N. Palm Avenue, Suite 310, Fresno, California 93704. City and Attorney are hereinafter collectively referred to as the “**Parties**,” and singularly as “**Party**”.

### RECITALS

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

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

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

**WHEREAS**, City and Attorney desire to amend the Agreement by increasing the previously approved amount of fees from \$487,500 to \$493,000.

**NOW, THEREFORE**, it is hereby agreed that the Legal Services Agreement between the City of Modesto and Liebert Cassidy Whitmore, dated August 8<sup>th</sup>, 2016, amended by Resolution Nos. 2016-510, 2017-273, 2017-501, 2018-329 and 2020-365 is amended as follows:

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

The total of all fees paid to Attorney for the performance of all services set forth in Section 1 (hereafter the “**Service**”), and for all authorized Reimbursable Expenses (as defined hereafter), shall not exceed a total sum of four hundred ninety-three thousand dollars (\$493,000).”

3. **Entire Agreement.** The parties to this Sixth Amendment understand and agree that except as stated herein all terms and conditions of the original Agreement, dated August 8<sup>th</sup>, 2016, remain in full force and effect to the extent they are not in conflict with this Sixth Amendment. This document, including all exhibits, contain the entire amendment to the Agreement between the Parties and supersedes whatever oral or written understanding they may have had prior to the execution of this Sixth Amendment. No alteration to the terms of this Sixth Amendment shall be valid unless approved in writing by Attorney and by City, in accordance with applicable provision of the Modesto City Code.

3. **Authority.** The person signing this Sixth Amendment for Attorney hereby represents and warrants that he/she is fully authorized to sign this Sixth Amendment on behalf of Attorney and to bind Attorney to the performance of its obligations hereunder.

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

**CITY OF MODESTO,**  
A Municipal Corporation

By: \_\_\_\_\_

Print name: Joseph P. Lopez

Title: City Manager

**APPROVED TO AS FORM:**

\_\_\_\_\_  
Jose M. Sanchez, City Attorney

**ATTEST:**

\_\_\_\_\_  
Diane Nayaes-Perez, City Clerk

\_\_\_\_\_  
Joe Rodriguez, Risk Manager

**[Signatures Continued on Next Page.]**

**ATTORNEY:  
LIEBERT CASSIDY WHITMORE**

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Federal I.D. No.

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State I.D. No.

---

City of Modesto Business Op. Tax Cert. No.

TYPE OF BUSINESS ENTITY (*check one*):

- Individual/Sole Proprietor
- Partnership
- Corporation
- Limited Liability Company
- Other (*please specify:* \_\_\_\_\_)

---

**Signature of Authorized Person**

---

Title

---

Additional Signature (*if required*)

---

Title

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2022-284**

**RESOLUTION APPROVING SUBMISSION OF A REQUEST FOR LOCAL  
ADVANCED CONSTRUCTION AUTHORIZATION IN THE AMOUNT OF UP  
TO \$1,200,000 FOR THE CONSTRUCTION PHASE OF THE SR99/PELANDALE  
INTERCHANGE - PHASE 2 PROJECT, AND AUTHORIZING THE CITY  
MANAGER OR HIS DESIGNEE, TO EXECUTE THE REQUIRED  
DOCUMENTS**

WHEREAS, the SR99/Pelandale Interchange - Phase 2 Project will reconstruct the interchange and alleviate congestion and improve operations of both SR99 and Pelandale Avenue; and

WHEREAS, on December 17, 2019, City staff applied for up to \$1,200,000 in Congestion Mitigation and Air Quality (CMAQ) funds for Pelandale Avenue and Sisk Road intersection improvements for the construction phase of the SR99/Pelandale Interchange - Phase 2 Project; and

WHEREAS, these CMAQ funds were programmed into the Federal Transportation Improvement Program (FTIP) for the 2021/22 Fiscal Year by StanCOG; and

WHEREAS, to receive obligation and use of these CMAQ funds, City staff must submit a Request for Authorization (RFA) for construction to Caltrans, which must be submitted after issuance of a Right-of-Way Certification and Encroachment Permit by Caltrans; and

WHEREAS, on May 1, 2022, Caltrans provided notification to all Local Agencies that Obligation Authority (OA) had been opened up to the State and RFA's will now be processed on a first come, first serve basis until the OA is depleted; and

WHEREAS, once the OA is depleted, the remaining projects that did not receive the requested allocation of funds get in line for the “August Redistribution,” which usually becomes available in mid-July; and

WHEREAS, the August Redistribution is additional federal funding that becomes available to projects in the queue on a first-come, first-served basis; and

WHEREAS, in a typical year, OA is depleted around June 30th, but it can sometimes vary and be earlier or a bit later depending on the number of RFA’s received by Caltrans from all Local Agencies; and

WHEREAS, this project requires the acquisition of a portion of the parcel located at 4125 Sisk Road and requires the reconfiguration of the existing drive-thru of this parcel; and

WHEREAS, the acquisition process for the area required has been a complex and lengthy endeavor that is currently still in process, so the Right-of-Way Certification has not been signed by Caltrans; and

WHEREAS, City staff must receive a signed Right-of-Way Certification prior to submitting the RFA for Construction; and

WHEREAS, negotiations for a Stipulation of Pre-judgement Possession required for the Right-of-Way Certification are currently in process with the property owner and property tenant; and

WHEREAS, it is anticipated that these negotiations will conclude soon, and the stipulations will be signed by all parties leading to Caltrans approving the Right-of-Way Certification and City staff submitting the RFA for Construction; and

WHEREAS, Caltrans generally requires all RFA's to be submitted prior to June 30th to have the best chance of receiving allocation of funds prior to the depletion of OA each fiscal year; and

WHEREAS, in the event an RFA is submitted after June 30th or if OA is depleted when RFA submittal occurs, Caltrans has a mechanism for allowing local agencies to be eligible for August Redistribution, which is called a "Request for Local Advance Construction Authorization"; and

WHEREAS, Caltrans cannot guarantee that funds will become available via August Redistribution, therefore the City is required to "guarantee" that the City will be able to backfill the \$1,200,000 with local money in the event that the \$1,200,000 in CMAQ funds do not materialize; and

WHEREAS, a request for Advanced Construction requires that the City Manager sign a form (**Exhibit 3-I, attached**) stating that the City will provide the \$1,200,000 in the event the \$1,200,000 in CMAQ funds is not obligated to this project; and

WHEREAS, as soon as Right-of-Way Certification is received, the RFA for Construction package will be submitted to Caltrans; and

WHEREAS, in an ideal scenario this will happen prior to June 30, 2022, and prior to depletion of OA, so a regular RFA for Construction will be submitted to Caltrans; and

WHEREAS, in case the Right-of-Way Certification is not signed by this date or if OA is depleted upon submittal, staff is requesting authorization to submit the **Exhibit 3-I** Request for Local Advance Construction Authorization.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves submission of a Request for Local Advanced Construction

Authorization in the amount of up to \$1,200,000 for the construction phase of the SR99/Pelandale Interchange - Phase 2 Project.

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 28th day of June, 2022, by Councilmember Kenoyer, who moved its adoption, which motion being duly seconded by Councilmember Wright, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Escutia-Braaton, Kenoyer, Madrigal, Ricci, Wright, Mayor Zwahlen

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST:   
DIANE NAYARES-PEREZ, CMC,  
City Clerk

(SEAL)

APPROVED AS TO FORM:

BY:   
JOSE M. SANCHEZ, City Attorney

**Exhibit 3-1: Request for Local Advance Construction Authorization**  
[Placed on Local Agency Letterhead]

To: District Local Assistance Engineer  
Date: \_\_\_\_\_  
FTIP/FSTIP ID: \_\_\_\_\_  
Federal Project Number: \_\_\_\_\_  
EA: \_\_\_\_\_

Re: Request for Advance Construction Authorization for \_\_\_\_\_ for \_\_\_\_\_ at \_\_\_\_\_

Project Description: \_\_\_\_\_

Dear:

The \_\_\_\_\_ requests federal Advance Construction authorization for the (Preliminary Engineering, Right of Way, Construction and/or Construction Engineering) phase(s) of work for the above referenced project.

The \_\_\_\_\_ understands that currently there are insufficient federal transportation funds (and/or Obligational Authority (OA)) to obligate the appropriate funds for the proposed work. The \_\_\_\_\_ agrees to use local funds in lieu of federal funds to finance the cost of work until such time that federal funds (and/or OA) become available for obligation and subsequent reimbursement of the federal share of work. It is understood that an FTIP amendment may be required when the Advance Construction Authorization is converted to a real obligation of federal funds. It also is understood that federal reimbursement is **not** guaranteed.

The \_\_\_\_\_ understands that work performed prior to federal authorization is ineligible for federal reimbursement and that advertising the construction contract prior to federal authorization will deem the construction and construction phases of work ineligible for federal funds

For questions regarding this request you may contact \_\_\_\_\_ .

\_\_\_\_\_  
Signature of Local Agency Representative Authorized to Commit Local Funds

\_\_\_\_\_  
Title

**Distribution:** 1) DLAE 2) DLA 3) MPO

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2022-285**

**RESOLUTION APPROVING THE COMPETITIVE BIDDING PROCESS FROM HOUSTON-GALVESTON AREA COUNCIL OF GOVERNMENTS (HGAC) BUY WITH THORWORKS INDUSTRIES/SEALMASTER, BAKERSFIELD, CA FOR A CRACK SEAL FOR A TOTAL AMOUNT NOT TO EXCEED \$78,166; AND AUTHORIZING THE PURCHASING MANAGER, OR HER DESIGNEE, TO ISSUE THE PURCHASE ORDER**

WHEREAS, every year, City vehicles and equipment are individually evaluated based on their age, condition, mileage and maintenance costs); and

WHEREAS, once a unit is replaced and placed into City service, funds for its replacement are charged out as monthly recurring charges until the end of the unit's service life; and

WHEREAS, on March 26, 2020, Houston-Galveston Area Council of Governments (HGAC) Buy issued Request for Bids (RFB) #SM10-20 for Street Maintenance Equipment and advertised through the HGAC public website and via the Houston Chronicle; and

WHEREAS, the RFB was downloaded by 34 vendors; and

WHEREAS, on April 22, 2020 bids were formally opened at the HGAC offices; and

WHEREAS, twenty-nine bids were received and based on the overall responsiveness criteria outlined in the RFB, twenty-eight contracts were awarded for Street Maintenance Equipment; and

WHEREAS, HGAC Buy is a cooperative agreement to streamline the procurement process by developing RFBs for national competitive solicitations that meet or exceed local requirements; and

WHEREAS, Modesto Municipal Code Section 8-3.203 generally requires all purchases that meet or exceed \$50,000 for material, equipment or contractual services to be formally bid. However, exceptions to the formal bidding process are granted in MMC 8-3.204(d) “Where the Purchasing Manager, in her discretion, determines that a process other than the formal bid procedure set for 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, MMC 8-3.202(h) encourages the Purchasing Manager to join with the State of California or other units of government in cooperative purchasing plans when the best cost savings interest of the City would be served.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the competitive bidding process from Houston-Galveston Area Council of Governments (HGAC) Buy with ThorWorks Industries/SealMaster, Bakersfield, CA for a Crack Seal for a total amount not to exceed \$78,166.

BE IT FURTHER RESOLVED that the Purchasing Manager, or her designee, is hereby authorized to execute the purchase order.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 28th day of June, 2022, by Councilmember Kenoyer, who moved its adoption, which motion being duly seconded by Councilmember Wright, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Escutia-Braaton, Kenoyer, Madrigal, Ricci, Wright, Mayor Zwahlen

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST:   
DIANE NAYARES-PEREZ, CMC,  
City Clerk

(SEAL)

APPROVED AS TO FORM:

BY:   
JOSE M. SANCHEZ, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2022-286**

**RESOLUTION APPROVING THE COMPETITIVE BIDDING PROCESS FROM SOURCEWELL (FORMERLY NATIONAL JOINT POWERS ALLIANCE) WITH INTERSTATE TRUCK CENTER DBA VALLEY PETERBILT, TURLOCK, CA FOR A PETERBILT CLASS 4-8 CHASSIS WITH RELATED EQUIPMENT FOR A TOTAL AMOUNT NOT TO EXCEED \$199,846; AND AUTHORIZING THE PURCHASING MANAGER, OR HER DESIGNEE, TO ISSUE THE PURCHASE ORDER**

WHEREAS, every year, City vehicles and equipment are individually evaluated based on their age, condition, mileage and maintenance costs); and

WHEREAS, once a unit is replaced and placed into City service, funds for its replacement are charged out as monthly recurring charges until the end of the unit's service life; and

WHEREAS, on June 9, 2020, Sourcewell issued Request for Proposals (RFP) #0600920 PMC for Peterbilt Class 4-8 Chassis with related equipment on the Sourcewell website, Utah Salt Lake Tribune, USA Today, South Carolina – The State, and Oregon Daily Journal; and

WHEREAS, the RFP was also advertised and distributed to 75 vendors; and

WHEREAS, on July 21, 2020, proposals were formally opened at the Sourcewell offices; and

WHEREAS, twenty-five proposals were received and based on the Sourcewell Proposal Review Committee and criteria outlines in the RFP, nine contracts were awarded for Peterbilt Class 4-8 Chassis with related equipment; and

WHEREAS, Sourcewell is a cooperative agreement to streamline the procurement process by developing RFPs for national competitive solicitations that meet or exceed local requirements; and

WHEREAS, Modesto Municipal Code Section 8-3.203 generally requires all purchases that meet or exceed \$50,000 for material, equipment or contractual services to be formally bid. However, exceptions to the formal bidding process are granted in MMC 8-3.204(d) “Where the Purchasing Manager, in her discretion, determines that a process other than the formal bid procedure set for 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, MMC 8-3.202(h) encourages the Purchasing Manager to join with the State of California or other units of government in cooperative purchasing plans when the best cost savings interest of the City would be served.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the competitive bidding process from Sourcewell (formerly National Joint Powers Alliance) with Interstate Truck Center dba Valley Peterbilt, Turlock, CA for a Peterbilt Class 4-8 Chassis with related equipment for a total amount not to exceed \$199,846.

BE IT FURTHER RESOLVED that the Purchasing Manager, or her designee, is hereby authorized to execute the purchase order.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 28th day of June, 2022, by Councilmember Kenoyer, who moved its adoption, which motion being duly seconded by Councilmember Wright, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Escutia-Braaton, Kenoyer, Madrigal, Ricci, Wright, Mayor Zwahlen

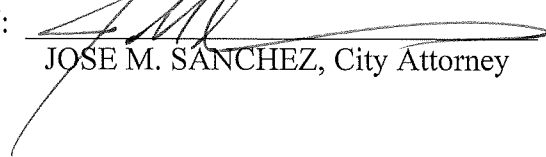
NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST:   
DIANE NAYARES-PEREZ, CMC,  
City Clerk

(SEAL)

APPROVED AS TO FORM:

BY:   
JOSE M. SANCHEZ, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2022-287**

**RESOLUTION APPROVING THE COMPETITIVE BIDDING PROCESS FROM SOURCEWELL (FORMERLY NATIONAL JOINT POWERS ALLIANCE) WITH PB LOADER, FRESNO, CA FOR TWO (2) DUMP TRUCKS FOR A TOTAL AMOUNT NOT TO EXCEED \$292,927; AND AUTHORIZING THE PURCHASING MANAGER, OR HER DESIGNEE, TO ISSUE THE PURCHASE ORDER**

WHEREAS, every year, City vehicles and equipment are individually evaluated based on their age, condition, mileage and maintenance costs); and

WHEREAS, once a unit is replaced and placed into City service, funds for its replacement are charged out as monthly recurring charges until the end of the unit's service life; and

WHEREAS, on June 17, 2021, Sourcewell issued Request for Proposals (RFP) #0850521 PBL for Roadway Maintenance Equipment on the Sourcewell website, the New York State Contract Reporter website, the Onvia website, and the PublicPurchase.com website; and

WHEREAS, the RFP was also advertised and distributed to sixty (60) vendors; and

WHEREAS, on August 15, 2021 proposals were formally opened at the Sourcewell offices; and

WHEREAS, thirty (30) proposals were received and based on the Sourcewell Proposal Review Committee and criteria outlines in the RFP, six contracts were awarded for Roadway Maintenance Equipment: and

WHEREAS, Sourcewell is a cooperative agreement to streamline the procurement process by developing RFPs for national competitive solicitations that meet or exceed local requirements; and

WHEREAS, Modesto Municipal Code Section 8-3.203 generally requires all purchases that meet or exceed \$50,000 for material, equipment or contractual services to be formally bid. However, exceptions to the formal bidding process are granted in MMC 8-3.204(d) “Where the Purchasing Manager, in her discretion, determines that a process other than the formal bid procedure set for 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, MMC 8-3.202(h) encourages the Purchasing Manager to join with the State of California or other units of government in cooperative purchasing plans when the best cost savings interest of the City would be served.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the competitive bidding process from Sourcewell (formerly National Joint Powers Alliance) with PB Loader, Fresno, CA for two (2) Dump Trucks for a total amount not to exceed \$292,927.

BE IT FURTHER RESOLVED that the Purchasing Manager, or her designee, is hereby authorized to execute the purchase order.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 28th day of June, 2022, by Councilmember Kenoyer, who moved its adoption, which motion being duly seconded by Councilmember Wright, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Escutia-Braaton, Kenoyer, Madrigal, Ricci, Wright, Mayor Zwahlen

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST:   
DIANE NAYARÉS-PÉREZ, CMC,  
City Clerk

(SEAL)

APPROVED AS TO FORM:

BY:   
JOSE M. SANCHEZ, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2022-288**

**RESOLUTION APPROVING A MEMORANDUM OF UNDERSTANDING FOR SERVICE BETWEEN THE CITY OF CERES, THE CITY OF MODESTO, THE STANISLAUS CONSOLIDATED FIRE PROTECTION DISTRICT, AND THE CITY OF TURLOCK FOR FIRE DEPARTMENT TRAINING SERVICES AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE AGREEMENT**

WHEREAS, the Modesto Fire Department is an all-risk fire department that responds to multiple types of emergency incidents and firefighters must be well trained and proficient in all emergencies; and

WHEREAS, a partnership between the City of Ceres, Modesto Fire Department, Stanislaus Consolidated Fire Protection District, and the City of Turlock, will provide training staff, equipment, and facilities to meet the training needs of the agencies and better serve the communities; and

WHEREAS, the Joint Training Division will be responsible for the ongoing training of all operational personnel; and

WHEREAS, the Modesto Fire Department will provide administrative oversight of the training division and will provide two (2) forty-hour training officers, along with administrative support from a part-time administrative assistant; and

WHEREAS, the City of Ceres will provide the facility for the Joint Training Division, utilizing the existing unstaffed Fire Station No. 3 (17) on Service Road; and

WHEREAS, the City of Turlock will provide (1) forty-hour Division Chief and the use of their training facility located at 701 South Walnut Ave. in Turlock, and

WHEREAS, the Stanislaus Consolidated Fire Protection District will provide (1) forty-hour training officer and additional administrative support when deemed necessary.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the Memorandum of Understanding for service between the City of Ceres, the City of Modesto, the Stanislaus Consolidated Fire Protection District, and the City of Turlock for Fire Department Training Services.

BE IT FURTHER RESOLVED that the City Manager or designee is hereby authorized to execute the agreement, in a form approved by the City Attorney.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 28th day of June, 2022, by Councilmember Kenoyer, who moved its adoption, which motion being duly seconded by Councilmember Wright, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Escutia-Braaton, Kenoyer, Madrigal, Ricci, Wright, Mayor Zwahlen

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST:   
DIANE NAYARES-PEREZ, CMC,  
City Clerk

(SEAL)

APPROVED AS TO FORM:

BY:   
JOSE M. SANCHEZ, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2022-289**

**RESOLUTION ACCEPTING THE CITY MANAGER'S RECOMMENDATION TO AWARD NON-EXCLUSIVE, NON-CONSENSUAL FRANCHISE TOWING SERVICES CONTRACT TO TWELVE (12) APPLICANTS; DECLARING CITY COUNCIL'S INTENTION TO CONSIDER THE APPLICATIONS AT THE AUGUST 9, 2022, CITY COUNCIL MEETING; AND DIRECTING THE CITY CLERK TO PUBLISH NOTICE OF HEARING IN ACCORDANCE WITH MODESTO MUNICIPAL CODE SECTION 11-2.05 ET SEQ**

WHEREAS, the current non-exclusive, non-consensual franchise towing service agreement expires September 17, 2022; and

WHEREAS, on February 23, 2022, Request for Applications (RFA) 2122-43 for City Generated Non-Exclusive, Non-Consensual Franchise Towing Services was posted to Planet Bids with a closing date of March 22, 2022; and

WHEREAS, sixteen prospective bidders downloaded the RFA documents; and

WHEREAS, twelve tow companies submitted applications to the City Clerk's Office by the March 22 deadline; and

WHEREAS, all required documents were reviewed by the Finance Department and all twelve applicants were deemed responsive and responsible on that portion of the review process; and

WHEREAS, next the applications and documentation were provided to the Franchise Tow Administrator at the Modesto Police Department for review of all supporting documentation, scheduling of site visits and equipment verification, and background checks were initiated in accordance with Modesto Municipal Code Section 11-2.01 through 11-2.03; and

WHEREAS, the applicants have passed all financial, business and insurance requirements, site equipment verification and background checks, all applicants are listed on the Applicant List **attached** hereto; and

WHEREAS, the list of twelve applicants were forwarded to the City Manager on May 20, 2022, for review and recommendation to City Council.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby accepts the City Manager's recommendation to consider the award of Non-Exclusive, Non-Consensual Franchise Towing Services contracts to the applicants in the list **attached** hereto.

BE IT FURTHER RESOLVED, the City Council declares its intent to consider the applications at the public hearing which shall be held at 5:30 p.m. on August 9, 2022, in City Council Chambers located in City Hall, at 1010 10<sup>th</sup> Street, Modesto, CA 95354 and the City Clerk is directed to publish the notice of said hearing in accordance with Modesto Municipal Code Section 11.2-01 et seq.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 28th day of June, 2022, by Councilmember Kenoyer, who moved its adoption, which motion being duly seconded by Councilmember Escutia-Braaton, was upon roll call carried and the resolution adopted by the following vote:

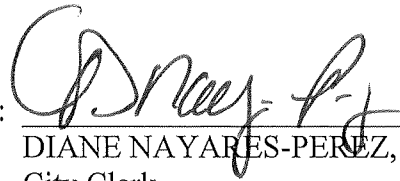
AYES: Councilmembers: Escutia-Braaton, Kenoyer, Madrigal,  
Mayor Zwahlen

NOES: Councilmembers: Ricci

RECUSE: Councilmembers: Wright

ABSENT: Councilmembers: None

ATTEST:



DIANE NAYARES-PEREZ, CMC,  
City Clerk

(SEAL)

APPROVED AS TO FORM:

BY:



JOSE M. SANCHEZ, City Attorney

## APPLICANT LIST

- Four Star Recovery and Towing
- Central Valley Autobody and Tow
- Anderson's Tow
- City Tow
- E-Tow
- Ceres Pro Tow
- Scenic Towing & Auto Care/Mike's Tow
- Tow One, Inc.
- Myers Towing, Inc.
- Super Towing
- Ramont's Tow Service
- Dizney & Wise Towing\*

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2022-290**

**RESOLUTION REESTABLISHING AND RESTRUCTURING THE CITY OF  
MODESTO YOUTH COMMISSION, ADOPTING MODESTO YOUTH  
COMMISSION BYLAWS, AND RESCINDING RESOLUTION NOS. 74-352, 86-  
1369 AND \*89-443**

WHEREAS, on May 6, 1974, by Resolution No. 74-352, Council established the City of Modesto Youth Commission (“Youth Commission”) to provide opportunities for young people to participate actively in governmental processes, and

WHEREAS, by Resolution Nos 86-1369 and \*89-443, both superseding Resolution No. 74-352, Council amended the methods in which Youth Commission members were recommended and appointed, and

WHEREAS, the Youth Commission remained active through the end of the 2009-2010 school year, and

WHEREAS, in 2020, local students reached out to the City to restore the Youth Commission, and

WHEREAS, a formation advisory board was created as a pilot group to review and update membership criteria, application processes, create bylaws, set youth-oriented goals, and initiate the application process for the 2022-2023 school year, and

WHEREAS, the formation advisory board, comprised of eight students from Modesto, Beyer, Enochs, and Downey High Schools, met regularly, and collectively drafted new membership requirements and bylaws, and

WHEREAS, the formation advisory board recommends the Youth Commission be composed of nine (9) members who reside within the boundaries of the City of Modesto and who are enrolled as a full-time high school student, and

WHEREAS, members may be appointed for a one-year term commencing each school year on October 1<sup>st</sup> and ending on June 30<sup>th</sup>, and

WHEREAS, members may serve up to four (4) consecutive terms, and

WHEREAS, members shall be appointed in compliance with the City's appointment policies and procedures, including recommendations for appointment by the Appointment's Committee and City Council approval, and

WHEREAS, in accordance with the proposed bylaws, the powers and duties of the Youth Commission shall include the following:

- (a) Act in an advisory capacity to the City Council and the City Manager in matters pertaining to youth, and to initiatives, policies and programs impacting the youth in the City of Modesto;
- (b) Formulate and recommend programs to the City Council relating to the concerns and needs of youth in the City of Modesto;
- (c) Promote engagement from nonprofits, neighborhood associations, and other groups to promote and provide better youth services and increase opportunities for youth engagement in the community;
- (d) Work with other youth organizations in the City of Modesto and other communities to share ideas and strategies for increased youth engagement;
- (e) Act in an advisory capacity to other City commissions in matters of youth-related concerns and programs;
- (f) Receive reports from City staff on ongoing efforts and strategies that have been established by the city related to youth activities, including but not limited to those implemented as solutions to problems encountered by youth; program development or improvement to eliminate gaps in service to youth; programs created or improved to provide access to resources; and programs developed or improved to encourage youth participation and include the unique youth voice.

\*Clerical Error

WHEREAS, the composition and members, mission statement, vision statement, duties, and all other administrative and regulatory criteria are memorialized in the Youth Commission Bylaws, and

WHEREAS, the Youth Commission shall reconvene for the 2022-2023 school year.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Modesto Youth Commission shall be re-established.

BE IT FURTHER RESOLVED that the Modesto Youth Commission be comprised of nine (9) members which reside in the City of Modesto boundaries and are enrolled in high school.

BE IT FURTHER RESOLVED that the Modesto Youth Commission shall have the following duties:

- (a) Act in an advisory capacity to the City Council and the City Manager in matters pertaining to youth, and to initiatives, policies and programs impacting the youth in the City of Modesto;
- (b) Formulate and recommend programs to the City Council relating to the concerns and needs of youth in the City of Modesto;
- (c) Promote engagement from nonprofits, neighborhood associations, and other groups to promote and provide better youth services and increase opportunities for youth engagement in the community;
- (d) Work with other youth organizations in the City of Modesto and other communities to share ideas and strategies for increased youth engagement;
- (e) Act in an advisory capacity to other City commissions in matters of youth-related concerns and programs;
- (f) Receive reports from City staff on ongoing efforts and strategies that have been established by the city related to youth activities, including but not limited to those implemented as solutions to problems encountered by youth; program development or

\*Clerical Error

improvement to eliminate gaps in service to youth; programs created or improved to provide access to resources; and programs developed or improved to encourage youth participation and include the unique youth voice.

BE IT FURTHER RESOLVED, that the Modesto Youth Commission bylaws, **attached** hereto, are hereby adopted.

BE IT FURTHER RESOLVED, that Resolutions Nos. 74-352, 86-1369, and \*89-443 are hereby rescinded.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 28th day of June, 2022, by Councilmember Kenoyer, who moved its adoption, which motion being duly seconded by Councilmember Wright, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Escutia-Braaton, Kenoyer, Madrigal, Ricci, Wright, Mayor Zwahlen

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST:

  
\_\_\_\_\_  
DIANE NAYARES-PEREZ, CMC,  
City Clerk

(SEAL)

APPROVED AS TO FORM:

BY:

  
\_\_\_\_\_  
JOSE M. SANCHEZ, City Attorney

## **YOUTH COMMISSION BYLAWS**

Adopted [DATE], Resolution No. [XX]

### **Article I. Definitions**

Section 1.01 There is a Commission created to be known and designates as the Modesto Youth Commission

Section 1.02 As used in these Bylaws, unless a different meaning clearly appears from the context:

(a) “Member” shall mean a member of the Youth Commission.

(b) “Youth Commission” and “Commission” shall mean the Youth Commission.

(c) “Regular Meeting” shall mean the monthly Commission meetings.

### **Article II. Mission Statement and Objectives**

Section 2.01 Mission Statement:

The mission of the Modesto Youth Commission is to provide Modesto young people from diverse walks of life with the opportunity to participate actively in the governmental process, to provide advice and input on matters impacting youth, and act as liaison between the youth of Modesto and the City Council on matters affecting the quality of life for all youth.

Section 2.02 Vision Statement

To expand civic participation opportunities to diverse youth to share ideas, recommendations, and youth perspective in the development of City of Modesto programs and policies that affect their lives.

To educate youth through guidance and meaningful participation in the processes of civic engagement including the procedures for advocacy, collaboration, communicating the needs of youth, decision-making, leadership, and planning.

Section 2.03 Power and Duty

The Commission has the power and duty to:

- (a) Act in an advisory capacity to the City Council and the City Manager in matters pertaining to youth, and to initiatives, policies and programs impacting the youth in the City of Modesto;
- (b) Formulate and recommend programs to the City Council relating to the concerns and needs of youth in the City of Modesto;
- (c) Promote engagement from nonprofits, neighborhood associations, and other groups to promote and provide better youth services and increase opportunities for youth engagement in the community;
- (d) Work with other youth organizations in the City of Modesto and other communities to share ideas and strategies for increased youth engagement;
- (e) Act in an advisory capacity to other City commissions in matters of youth-related concerns and programs;
- (f) Receive reports from City staff on ongoing efforts and strategies that have been established by the city related to youth activities, including but not limited to those implemented as solutions to problems encountered by youth; program development or improvement to eliminate gaps in service to youth; programs created or improved to provide access to resources; programs developed or improved to encourage youth participation and include the unique youth voice;
- (g) Work with City staff to promote better youth services and to find solutions to concerns involving youth in the City of Modesto.

**Article III. Membership**

Section 3.01 The Youth Commission shall consist of nine (9) qualified persons, comprised of the following:

<b>Seat Designation</b>	<b>Term</b>
Chairperson	One year, voted by simple majority of commission.
Vice Chairperson	One year, voted by simple majority of commission.
Commissioners	One year, appointed by City Council.

\*Clerical Error

Section 3.02 Youth Commissioners must:

- (a) Live within the boundaries of the City of Modesto.
- (b) Be a full-time student enrolled in high school.

Section 3.03 No Member of the Commission shall be an employee of the City, nor of any bargaining unit for employees of the City, nor a person who receives compensation from the City.

Section 3.04 All appointments to the Commission shall be recommended by the City's Appointments Committee and approved by the City Council.

Section 3.05 No Member of the Commission shall be a relative, by blood or marriage within the third degree of the Mayor, a Councilmember, a Charter Officer, or any Department Director or Deputy Department Director.

#### **Article IV. Terms of Office**

Section 4.01 Members may serve no more than four (4) consecutive terms.

Section 4.02 A full term is one (1) year in duration.

Section 4.03 A partial term of one (1) year shall be considered a full term for purposes of Section 4.01.

Section 4.04 Full term appointments begin on October 1 and expire on June 30.

Section 4.05 Members not eligible for reappointment may continue to serve until their successors are appointed. No member shall serve more than four (4) consecutive years, with the exception of those who are serving until their successors are appointed.

Section 4.06 The Members of the Commission shall receive no compensation for the performance of their official duties.

Section 4.07 Appointments to fill vacancies on the Commission shall be handled in the same manner as the 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 4.08 Members of the Commission may be removed by a majority vote of the City Council after a recommendation by the Commission Chairperson for the following reasons:

- (a) Misconduct, inefficiency, or willful neglect in the performance of their duties providing the Member is first provided in writing the

reasons for such removal and gives the Member the opportunity to be heard before the City Council in their own defense.

- (b) Refusal to resign from the Commission when no longer a resident of the City or when a conflict of interest exists.

**Article V. Attendance at Meetings**

Section 5.01 It shall be the responsibility of each Member to know the dates and times of all Commission Meetings. If a Members knows they will not be able to attend a regularly scheduled meeting, it shall be his or her responsibility to notify the Commission Secretary at least forty-eight (48) hours before the meeting, in order for the absence to be recorded as an excused absence.

Section 5.02 The minutes of each meeting will list those Members in attendance, those who are excused, and those who are unexcused.

Section 5.03 Attendance at meetings is expected and necessary to carry out the mission of the Commission. Three (3) or more unexcused absences are grounds for the removal from the Commission by the City Council.

**Article VI. Officers and Their Duties**

Section 6.01 Officers shall consist of Chair and Vice-Chair elected by a simple majority vote of Members of the Commission. Officers shall serve a one-year term.

Section 6.02 All officers shall exercise all privileges of membership, including the making of motions, seconding, and debate.

Section 6.03 The Chair shall preside at all meetings, shall appoint all ad hoc committees, and shall ensure that the bylaws, rules, and regulations as adopted by the Commission are properly enforced.

Section 6.04 The Vice-Chair shall assist the Chair in his/her duties and in the absence of the Chair shall perform all duties usually performed by the Chair.

Section 6.05 The Commission Secretary shall be a City staff member, appointed by the department head, to serve as Secretary. The Commission Secretary shall keep a record of the minutes of all Commission meetings and such other duties as are usually performed by a secretary.

**Article VII. Meetings**

Section 7.01 Special meetings shall be called by the Chair as necessary.

Section 7.02 Notices of all meetings, including agendas, shall be given to all Members of the Commission, to the City Clerk, to the City Manager, and to all others as provided by law. All such notices shall be furnished to the Commission in writing at least seventy-two (72) hours prior to the time of such meeting.

Section 7.03 All meeting agendas will be posted at Tenth Street Plaza.

Section 7.04 All meetings shall comply with the requirements of the Ralph M. Brown Act.

Section 7.05 A quorum is necessary for the Commission to transact any business. A quorum shall be defined as a simple majority of active Commission Members, which is one-half of the active members plus one.

Section 7.06 All meetings of the Commission shall be open to the public and shall be held at a public facility, which is accessible in accordance with the regulations of the Americans with Disabilities Act.

**Article VIII. Order of Proceedings**

Section 8.01 Roberts Rules of Order shall be the guide for the parliamentary procedures in the conduct of Commission meetings.

Section 8.02 The order of proceedings of all meetings shall be as follows, subject to majority vote of the Members present:

- (a) Roll Call
- (b) Declaration of Conflict of Interest
- (c) Public Comment Period
- (d) Consent Items
- (e) Old Business
- (f) New Business
- (g) Commission Comments and Reports
- (h) Matters Too Late for the Agenda
- (i) Adjournment

Section 8.03 Members of the public shall not speak unless recognized by the Chair and shall state his/her name before making any statement, which shall become part of the public record. The Chair may remove any person who refuses to follow these rules or the decision of the Chair.

\*Clerical Error

**Article IX. Amendments**

Section 9.01 The Bylaws and any future amendments shall be subject to the final approval of the City Council and shall not and are not intended to go beyond any of the powers and duties given to the Commission by the City Council.

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**MODESTO CITY COUNCIL  
RESOLUTION NO. 2022-291**

**RESOLUTION APPROVING THE AWARD OF BID FOR THE PURCHASE AND DELIVERY OF SODIUM HYPOCHLORITE – LIQUID CHLORINE TO UNIVAR SOLUTIONS USA INC., KENT, WA, FOR A ONE-YEAR AGREEMENT WITH FOUR ONE-YEAR EXTENSION OPTIONS, FOR AN ESTIMATED ANNUAL AMOUNT OF \$100,000 AND A TOTAL AMOUNT NOT TO EXCEED \$661,010 OVER FIVE YEARS, AND AUTHORIZING THE CITY MANAGER OR HIS DESIGNEE TO EXECUTE THE AGREEMENT**

WHEREAS, the City operates and maintains ninety-one potable water wells and twelve tanks. State regulations require the Water Division to disinfect the water to kill or inactivate most microorganisms. Sodium Hypochlorite is used to disinfect the wells and tanks throughout the City’s water system, and

WHEREAS, on September 5, 2017, by Resolution 2017-343, Council authorized the approval of the purchase of Sodium-Hypochlorite-Liquid Chlorine to Olin Corp-Chlor Alkali, Tracy, CA, for the Utilities Department, Water Division, for five years at a total cost of \$225,000, and

WHEREAS, on January 11, 2022, the Purchasing Division issued RFB 2122-05 Sodium Hypochlorite – Liquid Chlorine, on Planet Bids via the City’s website under two commodity codes. Prospective bidders were notified online and via email of the bid opportunity. Eighteen companies chose to download the RFB document, and

WHEREAS, on February 15, 2022, bids were formally opened by the City Clerk and broadcast via Microsoft Teams Livestream. Two companies chose to respond. Based on providing the lowest responsive and responsible bid, City staff recommended the award of bid for the purchase and delivery of Sodium Hypochlorite – Liquid Chlorine, to Univar Solutions USA Inc., Kent, WA (“Univar”), and

WHEREAS, Modesto Municipal Code Section 8-3.203 generally requires all

purchases, which meet or exceed \$50,000 for material, equipment or contractual services to follow formal bid procedure. An award of bid and agreement for the purchase and delivery of Sodium Hypochlorite – Liquid Chlorine for the Utilities/Water Division to Univar Solutions USA Inc., Kent, WA, conforms to the Modesto Municipal Code because the City complied with the formal bid procedures and Univar was the lowest responsive and responsible bidder.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the award of bid for Sodium Hypochlorite – Liquid Chlorine to Univar Solutions USA Inc., Kent, WA, for a one-year agreement with four one-year extension options, for an estimated annual amount of \$100,000 and a total amount not to exceed \$661,010 over five years.

BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to execute the agreement, in a form approved by the City Attorney.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 28th day of June, 2022, by Councilmember Kenoyer, who moved its adoption, which motion being duly seconded by Councilmember Wright, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Escutia-Braaton, Kenoyer, Madrigal, Ricci, Wright, Mayor Zwahlen

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST:   
DIANE NAYARÉS-PÉREZ, CMC,  
City Clerk

(SEAL)

APPROVED AS TO FORM:

BY:   
JOSE M. SANCHEZ, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2022-292**

**RESOLUTION APPROVING THE SOLE SOURCE AGREEMENT WITH ENVIROGEN TECHNOLOGIES, INC., RANCHO CUCAMONGA, CA, FOR SUPPORT SERVICES TO WELL #274 AND WELL #295 WITHIN THE GRAYSON COMMUNITY WATER SYSTEM, FOR AN ESTIMATED ANNUAL AMOUNT OF \$150,000 AND A TOTAL AMOUNT NOT TO EXCEED \$879,990 OVER FIVE YEARS, AND AUTHORIZING THE CITY MANAGER OR HIS DESIGNEE TO EXECUTE THE AGREEMENT**

WHEREAS, the Grayson Community Water System has over 277 water service connections serving approximately 875 residents. The City of Modesto provides water service through Well #274 and Well #295, both of which have high nitrate levels, and

WHEREAS, in August 2002, the California Department of Public Health issued a Compliance Order directing the City to have a reliable treatment system in place by April 2003, and

WHEREAS, Basin Water, Inc. was awarded the contract to install an ion exchange treatment process to reduce the nitrate levels, and

WHEREAS, Basin Water, Inc. was later purchased by Envirogen Technologies, Inc. (Envirogen) for nitrate treatment services and they have been providing operational support and critical parts for the on-site existing ion exchange equipment for the past seventeen years, and

WHEREAS, on October 11, 2016 by Resolution 2016-412, Council authorized an Equipment Lease to Purchase Agreement with Envirogen for the equipment used at Well #274 and Well #295., At the end of the Equipment Lease to Purchase Agreement on October 31, 2019, Modesto had the option to pay the balance of the purchase price (\$180,000 less all lease payments paid under this agreement) at which time the title to the equipment was transferred immediately from Envirogen to the City of Modesto, and

WHEREAS, Envirogen's ion exchange treatment process is a patented technology, and they provide a support service team with over twenty years of experience on Envirogen equipment, and

WHEREAS, in addition to service, Envirogen supplies critical spare parts for the equipment that was developed in 2009. The design has been modified over time such that some parts of the older versions of the IX equipment are no longer utilized in the current units being installed, and

WHEREAS, on July 11, 2017, by Resolution 2017-284, Council authorized the sole source Water Support Services Agreement with Envirogen Technologies, Inc., for support services to Well #274 and Well #295 within the Grayson community water system, and

WHEREAS, the Water Services Division requests approving this support services agreement with Envirogen for materials, salt and field engineering services to support the City of Modesto's operation of the Envirogen treatment systems located in Grayson, and

WHEREAS, Modesto Municipal Code, Section 8-3.203 generally requires all purchases, in excess of fifty thousand dollars to follow formal bidding procedures. However, MMC Section 8-3.204(b) provides that a purchase may be exempted from the City's formal bidding requirement where the Purchasing Agency's requirements can be met solely by a single article or process. Here, Envirogen is the only entity qualified to provide support services for the Envirogen treatment systems. Additionally, the support services from Envirogen are exempt from the formal bidding procedure in accordance with Modesto Municipal Code 8-3.204(b) because Envirogen is the original equipment manufacturer and sole proprietor of the necessary support services to Well #274 and Well

#295 within the Grayson community water system. Therefore, this purchase qualifies for exemption from the formal bidding procedures.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the sole source agreement with Envirogen Technologies, Inc., Rancho Cucamonga, CA for Support Services to Well# 274 and Well #295 within the Grayson community water system, for an estimated annual amount of \$150,000 and a total amount not to exceed \$879,00 over five years.

BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to execute the agreement, in a form approved by the City Attorney.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 28th day of June, 2022, by Councilmember Kenoyer, who moved its adoption, which motion being duly seconded by Councilmember Wright, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Escutia-Braaton, Kenoyer, Madrigal, Ricci, Wright, Mayor Zwahlen

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST:   
DIANE NAYARES PEREZ, CMC,  
City Clerk

(SEAL)

APPROVED AS TO FORM:

BY:   
JOSE M. SANCHEZ, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2022-293**

**RESOLUTION REJECTING ALL BIDS FOR THE LA LOMA PHASE 2C  
STRENGTHEN & REPLACE WATER MAINS PROJECT AND AUTHORIZING  
STAFF TO RE-ADVERTISE THE PROJECT FOR BIDS AT A FUTURE DATE**

WHEREAS, the bids were publicly opened on February 4, 2022, pursuant to City Charter Section 1307, and four bids were received; and

WHEREAS, staff has identified segments of sewer main that are failing and need upsizing within the project limits; and

WHEREAS, Utilities Department staff has determined that addressing the sewer main as part of the La Loma Phase 2C Strengthen & Replace Water Mains Project will minimize disruption to the community by upsizing both the water and sewer mains at the same time; and

WHEREAS, the Utilities department staff determined that it would be in the best interest of the City to reject all bids and re-advertise the project to address the undersized and failing sewer mains, providing for economy of scale and minimizing disruption to the public.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby rejects all bids received for the La Loma Phase 2C Strengthen & Replace Water Mains Project.

BE IT FURTHER RESOLVED that staff is hereby authorized to re-advertise the project.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 28th day of June, 2022, by Councilmember Kenoyer, who moved its adoption, which motion being duly seconded by Councilmember Wright, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Escutia-Braaton, Kenoyer, Madrigal, Ricci, Wright, Mayor Zwahlen

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST:   
DIANE NAYARÉS-PÉREZ, CMC,  
City Clerk

(SEAL)

APPROVED AS TO FORM:

BY:   
JOSE M. SANCHEZ, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2022-294**

**RESOLUTION APPROVING THE FISCAL YEAR 2022-23 DIAGRAM AND ANNUAL ASSESSMENT, AND ORDERING THE LEVY AND COLLECTION OF CHARGES WITHIN LANDSCAPE MAINTENANCE ASSESSMENT DISTRICT NO. 1 FOR DRY CREEK MEADOWS SUBDIVISIONS NOS. 1-6**

WHEREAS, on April 12, 2022, by Resolution No. 2022-182, Council 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 California Streets and Highways Code Sections 22500 through 22679, more commonly known as the Landscape and Lighting Act of 1972, and

WHEREAS, the charges against the real property are not levied with regard to property values but rather by the allocated cost shown within the Engineer's Annual Report, and

WHEREAS, the amount of the assessment for FY 22-23 will not increase over the amount imposed for FY 21-22, 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. 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 by the Council of the City of Modesto that it hereby orders the levy and collection of such charges as shown within the Engineer's Annual Report within City of Modesto Landscape Maintenance Assessment

District No. 1 for Dry Creek Meadows Subdivisions Nos. 1-6 for Fiscal Year 2022-23, and in each subsequent fiscal year in which the charges may validly be levied.

BE IT FURTHER RESOLVED that a certified copy of this resolution and **attached** documentation shall be delivered to the Auditor-Controller of the County of Stanislaus for placement of such charges on the 2022-23 County Tax Roll, and in each subsequent fiscal year in which the charges may validly be levied.

BE IT FURTHER RESOLVED that the diagram of said assessment district, which is **attached** hereto, 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 28th day of June, 2022, by Councilmember Wright, who moved its adoption, which motion being duly seconded by Councilmember Escutia-Braaton, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Escutia-Braaton, Kenoyer, Madrigal, Ricci, Wright, Mayor Zwahlen

NOES: Councilmembers: None

ABSENT: Councilmembers: None

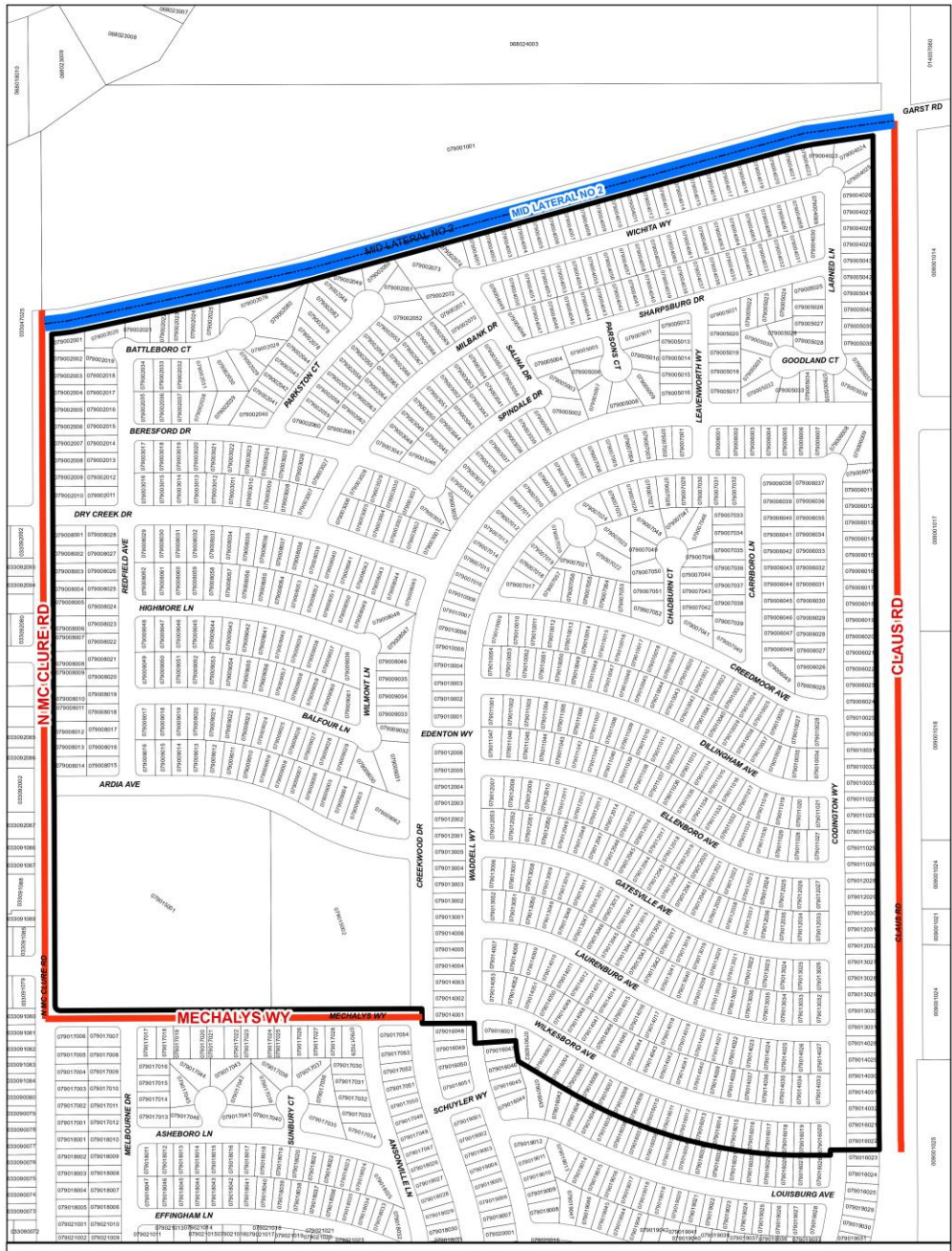
ATTEST.

  
DIANE NAYARES-PEREZ, CMC,  
City Clerk

(SEAL)

APPROVED AS TO FORM:

BY:   
JOSE M. SANCHEZ, City Attorney



# Assessment District Diagram

## Landscape Maintenance Assessment District No. 1 (Dry Creek Meadows Subdivisions No. 1 - 6)



Date: 1/6/2022

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**MODESTO CITY COUNCIL  
RESOLUTION NO. 2022-295**

**RESOLUTION APPROVING THE FISCAL YEAR 2022-23 DIAGRAM AND ANNUAL ASSESSMENT, AND ORDERING THE LEVY AND COLLECTION OF CHARGES WITHIN LANDSCAPE MAINTENANCE ASSESSMENT DISTRICT NO. 2 FOR DRY CREEK MEADOWS SUBDIVISIONS NOS. 7-10, CREEKWOOD MEADOWS SUBDIVISION AND YOSEMITE MEADOWS SUBDIVISION UNITS 1 & 2**

WHEREAS, on April 12, 2022, by Resolution No. 2022-183, Council 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 Subdivisions, and Yosemite Meadows Subdivision Units 1 and 2 under the provisions of California Streets and Highways Code Sections 22500 through 22679, more commonly known as the Landscape and Lighting Act of 1972, and

WHEREAS, the charges against the real property are not levied with regard to property values but rather by allocated cost reports prepared by the Engineer of Work, and

WHEREAS, the increase in the annual assessment is less than or equal to the annual inflator previously approved by the property owners within the District, and

WHEREAS, the annual assessment is to adjusted annually according to the BCI for the San Francisco Bay Area as reported in the Engineering New Record the second week of March, and

WHEREAS, the annual adjustment for fiscal year 2022-2033 is 25.37%, 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, and

WHEREAS, on June 28, 2022 a public hearing was held.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby orders the levy and collection of such charges as specified in the approved Engineer's Report within City of Modesto Landscape Maintenance Assessment District No. 2 for Dry Creek Meadows Subdivisions Nos. 7-10, Creekwood Meadows Subdivisions, and Yosemite Meadows Subdivision Units 1 and 2 for Fiscal Year 2022-23, and in each subsequent fiscal year in which the charges may validly be levied.

BE IT FURTHER RESOLVED that a certified copy of this resolution and **attached** documentation shall be delivered to the Auditor-Controller of the County of Stanislaus for placement of such charges on the 2022-23 County Tax Roll, and in each subsequent fiscal year in which the charges may validly be levied.

BE IT FURTHER RESOLVED that the diagram of said assessment district, which is **attached** hereto, 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 28th day of June, 2022, by Councilmember Wright, who moved its adoption, which motion being duly seconded by Councilmember Ricci, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Escutia-Braaton, Kenoyer, Madrigal, Ricci,  
Wright, Mayor Zwahlen

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST:   
DIANE NAYARES-PEREZ, CMC,  
City Clerk

(SEAL)

APPROVED AS TO FORM:

BY:   
JOSE M. SANCHEZ, City Attorney



# Assessment District Diagram

## Landscape Maintenance Assessment District No. 2

### (Dry Creek Meadows Subdivisions No. 7 - 10)

### (Creekwood Meadows Subdivision)

### (Yosemite Meadows Units No. 1 & 2)



Date: 1/6/2022

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**MODESTO CITY COUNCIL  
RESOLUTION NO. 2022-296**

**RESOLUTION APPROVING THE FISCAL YEAR 2022-23 DIAGRAM AND ANNUAL ASSESSMENT, AND ORDERING THE LEVY AND COLLECTION OF CHARGES WITHIN THE SHACKELFORD LANDSCAPE AND LIGHTING DISTRICT**

WHEREAS, on April 12, 2022, by Resolution No. 2022-184, Council declared its intent to levy charges or assessments for the purpose of administering the maintenance of seventy-seven 200-watt high pressure sodium street lights in the Shackelford Landscape and Lighting District under the provisions of California Streets and Highways Code Sections 22500 through 22679, more commonly known as the Landscape and Lighting Act of 1972, and

WHEREAS, the charges against the real property are not levied with regard to property values but rather by allocated cost reports prepared by the Engineer of Work, and

WHEREAS, a public hearing was held on June 28, 2022, and

WHEREAS, an assessment rate increase of 2% was added to the Shackelford Landscape and Lighting District, and

WHEREAS, each year the annual assessment uses a standard formula to calculate its fees: estimated operation and maintenance costs for the current year minus the fund balance from previous year and estimated property tax revenue for current year plus number of benefitting parcels in the district and \$1.50 per parcel administrative charge, 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. 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 by the Council of the City of Modesto that it orders the levy and collection of such charges as specified in the approved Engineer's Annual Report within City of Modesto Shackelford Landscape and Lighting District for Fiscal Year 2022-23, and in each subsequent fiscal year in which the charges may validly be levied; that a certified copy of this resolution and **attached** documentation shall be delivered to the Auditor-Controller of the County of Stanislaus for placement of such charges on the 2022-23 County Tax Roll, and in each subsequent fiscal year in which the charges may validly be levied.

BE IT FURTHER RESOLVED that the diagram of said assessment district, **attached** hereto, 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 28th day of June, 2022, by Councilmember Kenoyer, who moved its adoption, which motion being duly seconded by Councilmember Escutia-Braaton, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Escutia-Braaton, Kenoyer, Madrigal, Ricci, Wright, Mayor Zwahlen

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST:   
DIANE NAYARES-PEREZ, CMC,  
City Clerk

(SEAL)

APPROVED AS TO FORM:

BY:   
JOSE M. SANCHEZ, City Attorney



# Assessment District Diagram

## Shackelford Landscape and Lighting District



Date: 1/6/2022

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**MODESTO CITY COUNCIL  
RESOLUTION NO. 2022-297**

**RESOLUTION OF THE MODESTO CITY COUNCIL CALLING AN ELECTION TO BE HELD ON NOVEMBER 8, 2022, FOR VOTER CONSIDERATION OF A BALLOT MEASURE SEEKING VOTER APPROVAL TO IMPOSE A ONE-CENT TRANSACTIONS AND USE (SALES) TAX FOR GENERAL CITY SERVICES; REQUESTING THE BOARD OF SUPERVISORS OF THE COUNTY OF STANISLAUS TO CONSOLIDATE THE MUNICIPAL ELECTION WITH THE GENERAL ELECTION TO BE HELD ON NOVEMBER 8, 2022; REQUESTING CERTAIN SERVICES OF THE REGISTRAR OF VOTERS OF STANISLAUS COUNTY WITH RESPECT TO THE CONSOLIDATED GENERAL MUNICIPAL ELECTION; AND ESTABLISHING POLICIES AND PROCEDURES IN CONNECTION WITH SUCH AN ELECTION**

WHEREAS, the residents and the City Council of the City of Modesto (“City”) desire to restore critical City services aimed at reducing crime, maintaining a safe and inviting community, and improving quality of life, and

WHEREAS, the City has a special history and a bright future, with a treasured small-town feel; however, it is a growing City with big-city problems such as homelessness, blight, and crime, and

WHEREAS, the City does not receive enough funding from taxes, the State or the County to address local residents’ growing needs and concerns, and

WHEREAS, the City’s sales tax rate of 7.875% is one of the lowest percentiles statewide and in the region; with the City’s portion of that revenue being only one-cent, and

WHEREAS, the residents of the City receive far fewer services per capita than other benchmark cities in California, and

WHEREAS, since the Great Recession, the City’s organization has been decimated with the reduction of twenty-seven percent (27%) of the staff in the General

Fund departments, including seventy-seven (77) sworn Police officers and fifty-six (56) Fire personnel, and

WHEREAS, the cuts the City has had to make have resulted in a decrease in Police, Fire, and Emergency Medical Service response times at unacceptable levels far below industry standards, and

WHEREAS, even with these cuts the City has had to make to Police and Fire personnel, public safety represents 80% of the City's General Fund Operating Expenditures, and

WHEREAS, the City's once robust recreation services have also seen drastic changes. Due to funding shortages, the City's parks system has deteriorated to unacceptable conditions, with Seventy-Four Million Dollars (\$74,000,000) in deferred maintenance, and

WHEREAS, due to these funding shortages, it now takes months or even several years to respond to tree and sidewalk maintenance requests, and

WHEREAS, the City struggles to provide even basic City services without the reliance on one-time State and Federal funds assistance, and

WHEREAS, the City of Modesto is committed to long-term fiscal prudence, responsibility, innovation, and self-reliance, and

WHEREAS, a one-cent general revenue sales tax would enable the City to proactively develop a plan to improve City services and the quality of life for the citizens of Modesto. This additional funding would help to improve City Services such as, but not limited to:

- Addressing homelessness;

- Providing quicker responses to 911 emergencies, including DUIs, gang, and drug-related crimes;
- Supporting neighborhood police patrols, crime prevention, traffic enforcement, fire protection, and paramedics;
- Fixing and maintaining roads and sidewalks; and
- Keeping parks, recreation facilities, and public areas safe and clear of trash and litter.

WHEREAS, even after a one-cent general revenue sales tax, the City's sales tax rate will still be one of the lowest in the region; however, it will help keep the City competitive and attractive to business investment, and

WHEREAS, a one-cent general revenue sales tax would reduce the City's need to rely on State and Federal dollars, which often come with regulations on how the money can be spent. Instead, the City could use these local funds to satisfy local needs and priorities, and

WHEREAS, these local funds cannot be taken by the County, State, or Federal Government and are subject to local oversight, and

WHEREAS, pursuant to Elections Code Section 9222, the City Council may submit to the qualified voters of the City a proposition without a petition; therefore, by ordinance or resolution, and

WHEREAS, the City Council desires to submit to the qualified voters of the City a measure asking whether to amend the Modesto Municipal Code to add a one-cent transactions and use ("sales") tax as described above; and

WHEREAS, the City Council, pursuant to Resolution 2022-248, called for a General Municipal Election to be held on and consolidated with the November 8, 2022 general election and for the Stanislaus County Elections Department to conduct such election on behalf of the City of Modesto and therefore the Council now desires to include this Measure on the ballot at said election.

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

**SECTION 1. Placement of Measure on the Ballot.** Pursuant to California Elections Code Section 9222 and Revenue and Taxation Code section 7285.9, the City Council hereby calls and orders to be held in the City of Modesto, California, on Tuesday, November 8, 2022, an election at which a measure shall be submitted to the voters of the City for approval an ordinance to enact a local transactions and use tax. The question shall appear and be printed on the ballot as follows:

MEASURE \_\_\_\_

To fund general city services in the City of Modesto, such as police patrols, gang, drug, and crime prevention; fire protection, paramedic/911 emergency response; addressing homelessness; cleaning-up trash and illegal dumping; keeping streets, parks, sidewalks, landscapes and infrastructure safe, clean, and well-maintained, shall an ordinance establishing a one-cent sales tax be adopted, providing \$39,000,000 annually for general government use in Modesto until ended by voters, with citizen oversight and all money locally controlled?	Yes	<input type="checkbox"/>
	No	<input type="checkbox"/>

**SECTION 2. Approval of Ordinance.** The City Council hereby approves the proposed ordinance to be submitted to the voters, **attached** hereto as **Exhibit A**. The proposed measure shall not take effect unless and until approved by a vote of at least a simple

majority of affirmative votes of the voters voting on the question at the election. The ordinance specifies that the rate of the transactions tax shall be one-cent of the gross receipts of any retailer from the sale of all tangible personal property sold at retail in the City; it specifies that the rate of the transactions and use tax shall be one-cent of the sales price of tangible personal property stored, used, or otherwise consumed in the City. The tax shall be in effect until it is repealed by the voters. The California Department of Tax and Fee Administration shall collect the tax from retailers subject to the tax and remit the funds to the City. The full text of the Measure will be presented in the Voter Information Guide.

**SECTION 3. Publication of Measure.** The City Clerk is hereby directed to cause notice of the Measure to be published once in *The Modesto Bee*, the official newspaper of said City and a newspaper of general circulation printed and published in said City, in accordance with Section 12111 of the Elections Code and Section 6061 of the Government Code.

**SECTION 4. Request to Consolidate and Conduct Election and Canvass Returns.**

(a) Pursuant to the requirements of Section 10403 of the Elections Code, the Board of Supervisors of the County of Stanislaus is hereby requested to consent and agree to the consolidation of a General Municipal Election with the statewide election on Tuesday, November 8, 2022, for the purpose of placing the Measure set forth in Section 1 on the ballot. The City Council acknowledges that the consolidated election will be conducted in the manner prescribed in Elections Code section 10418.

(b) The County of Stanislaus Election Department is authorized to canvass the returns of the regularly scheduled General Municipal Election. The election shall be held in all respects as if there were only one (1) election, and only one (1) form of ballot shall be used.

(c) The Board of Supervisors is requested to issue instructions to the Stanislaus County Registrar of Voters to take any and all steps necessary for the holding of the consolidated election.

(d) The City of Modesto recognizes that additional costs will be incurred by the County of Stanislaus by reason of this consolidation and agrees to reimburse the County for any additional costs above and beyond those reimbursed by the State.

**SECTION 5. Submission of Ballot Arguments and Impartial Analysis.**

(a) The last day for submission of direct arguments for or against the Measure shall be by 5:00 p.m. on July 12, 2022.

(b) The last day for submission of rebuttal arguments for or against the Measure shall be by 5:00 p.m. on July 22, 2022.

(c) Direct arguments shall not exceed three hundred (300) words and shall be signed by not more than five (5) persons.

(d) Rebuttal arguments shall not exceed two hundred fifty (250) words and shall be signed by not more than five (5) persons; those persons may be different persons than the persons who signed the direct arguments.

(e) The City Attorney shall prepare an impartial analysis of the Measure by July 22, 2022.

(f) Pursuant to California Elections Code Section 9282, the Mayor is hereby authorized to prepare and file a written argument in favor of the proposed measure, not to exceed three hundred (300) words, on behalf of the City Council. At the Mayor's discretion, the argument may be signed by any combination of members of the City Council or bona fide associations of citizens or by individual voters who are eligible to vote on the Measure. In the event that an argument is filed against the measure, the Mayor is also authorized to prepare a rebuttal argument on behalf of the City Council, which may also be signed by any combination of members of the City Council or bona fide associations of citizens or by individual voters who are eligible to vote on the Measure, and who may be different from the signers of the direct argument. Submissions by email or facsimile are allowed for direct arguments and rebuttal arguments that are signed and otherwise meet the above requirements and the California Elections Code provided that the original copy thereof is delivered to the City Clerk within twenty-four (24) hours of submission of the electronic version.

(g) Pursuant to California Elections Code Section 9285, when the City Clerk has selected the arguments for and against the Measure, which will be printed and distributed to the voters, the City Clerk shall send copies of the argument in favor of the Measure to the authors of the argument against, and copies of the argument against to the authors of the argument in favor. Rebuttal arguments shall be printed in the same manner as the direct arguments. Each rebuttal argument shall immediately follow the direct argument which it seeks to rebut.

**SECTION 6. Effective Date.** This Resolution shall become effective immediately upon its passage and adoption. The City Clerk is directed to file a certified copy of this

Resolution with the Board of Supervisors of Stanislaus County and the Stanislaus County Elections Department. The City Clerk is hereby authorized and directed to take all steps necessary to place the Measure on the ballot and to prepare all required notices related to the ballot measure, and to publish such notices as required by law.

**SECTION 7. Passage of the Resolution.** This Resolution must be approved by a two-thirds (2/3) vote of the City Council.

**SECTION 8. CEQA.** The approval of this Resolution is exempt from the California Environmental Quality Act (Public Resources Code §§ 21000 et seq., “CEQA,” and 14 Cal. Code Reg. §§ 15000 et seq., “CEQA Guidelines”). The transactions and use tax to be submitted to the voters is a general tax that can be used for any legitimate governmental purpose; it is not a commitment to any particular action. As such, under CEQA Guidelines section 15378(b)(4), the tax is not a project within the meaning of CEQA because it creates a government funding mechanism that does not involve any commitment to any specific project that may result in a potentially significant physical impact on the environment. If revenue from the tax were used for a purpose that would have either such effect, the City would undertake the required CEQA review for that particular project. Therefore, under CEQA Guidelines section 15060, review under CEQA is not required.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 28th day of June, 2022, by Councilmember Wright, who moved its adoption, which motion being duly seconded by Councilmember Ricci, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Escutia-Braaton, Kenoyer, Madrigal, Ricci, Wright, Mayor Zwahlen

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST:   
DIANE NAYARÉS-PÉREZ, CMC,  
City Clerk

(SEAL)

APPROVED AS TO FORM:

BY:   
JOSE M. SANCHEZ, City Attorney

ORDINANCE NO. \_\_\_\_\_-C.S.

AN ORDINANCE ADDING ARTICLE 12 TO  
CHAPTER 2 OF TITLE 8 OF THE MODESTO  
MUNICIPAL CODE IMPOSING A TRANSACTIONS  
AND USE TAX

The People and the City Council of the City of Modesto do ordain as follows:

**WHEREAS**, the People and the City Council of the City of Modesto desire to restore critical City Services aimed at reducing crime, maintaining a safe and inviting community, and improving quality of life; and

**WHEREAS**, the City of Modesto ("City") has a special history and a bright future, with a treasured small-town feel; however, it is a growing City with big-city problems such as homelessness, blight, and crime; and

**WHEREAS**, the City does not receive enough funding from taxes, the State or the County to address local residents' growing needs and concerns; and

**WHEREAS**, the City's sales tax rate of 7.875% is one of the lowest percentiles statewide and in the region; with the City's portion of that revenue being only one percent (1%); and

**WHEREAS**, the residents of the City receive far fewer services per capita than other benchmark cities in California; and

**WHEREAS**, since the Great Recession, the City's organization has been decimated with the cutting of twenty-seven percent (27%) of the staff in the General Fund departments, including seventy-seven (77) sworn Police officers and fifty-six (56) Fire personnel; and

**WHEREAS**, the cuts the City has had to make have resulted in a decrease in Police, Fire, and Emergency Medical Service response times at unacceptable levels far below industry standards; and

**WHEREAS**, even with these cuts the City has had to make to Police and Fire personnel, public safety represents eight (80%) of the City's General Fund; and

**WHEREAS**, the City's once robust recreation services have also seen drastic changes. Due to funding shortages, the City's parks system has deteriorated to unacceptable conditions, with Seventy-Four Million Dollars (\$74,000,000) in deferred maintenance; and

**WHEREAS**, due to these funding shortages, it now takes months or even several years to respond to tree and sidewalk maintenance requests; and

**WHEREAS**, the City struggles to provide even basic City services without the reliance on one-time State and Federal funds assistance; and

**WHEREAS**, the City of Modesto is committed to long-term fiscal prudence, responsibility, innovation, and self-reliance; and

**WHEREAS**, a one percent (1%) general revenue sales tax would enable the City to proactively develop a plan to improve City services and the quality of life for the citizens of Modesto. This additional funding would help to improve City Services such as, but not limited to:

- Addressing homelessness.
- Providing quicker responses to 911 emergencies, including DUIs, gang, and drug-related crimes.
- Supporting neighborhood police patrols, crime prevention, traffic enforcement, fire protection, and paramedics.
- Fixing and maintaining roads and sidewalks.
- Keeping parks, recreation facilities, and public areas safe and clear of trash and litter.

**WHEREAS**, even after a one percent (1%) general revenue sales tax, the City's sales tax rate will still be one of the lowest in the region; however, it will help keep the City competitive and attractive to business investment; and

**WHEREAS**, a one percent (1%) general revenue sales tax would reduce the City's need to rely on State and Federal dollars, which often come with regulations on how the money can be spent. Instead, the City could use these local funds to satisfy local needs and priorities; and

**WHEREAS**, these local funds cannot be taken by the County, State, or Federal Government and are subject to local oversight.

**SECTION 1. INCORPORATION OF RECITALS.** The City Council and the People of Modesto find that all the Recitals are true and correct and are incorporated herein by reference.

**SECTION 2. AMENDMENT OF MUNICIPAL CODE.** Article 12 is hereby added to Chapter 2 of Title 8 of the Modesto Municipal Code to read as follows:

**"ARTICLE 12. TRANSACTION AND USE TAX.**

**8-2.1201- Title.**

This Ordinance shall be known as the Modesto Transactions and Use Tax Ordinance. This Ordinance shall be applicable in the incorporated territory of the City (hereinafter "City.")

**8-2.1202 - Operative Date.**

"Operative Date" means the first day of the first calendar quarter commencing more than 110 days after the adoption of this Ordinance, the date of such adoption being as set forth below.

### **8-2.1203 - Purpose.**

This Ordinance is adopted to achieve the following, among other purposes, and directs that the provisions hereof be interpreted in order to accomplish those purposes:

- A. To impose a retail transactions and use tax in accordance with the provisions of Part 1.6 (commencing with Section 7251) of Division 2 of the Revenue and Taxation Code and Section 7285.9 of Part 1.7 of Division 2 which authorizes the City to adopt this tax ordinance which shall be operative if a majority of the electors voting on the measure vote to approve the imposition of the tax at an election called for that purpose.
- B. To adopt a retail transactions and use tax ordinance that incorporates provisions identical to those of the Sales and Use Tax Law of the State of California insofar as those provisions are not inconsistent with the requirements and limitations contained in Part 1.6 of Division 2 of the Revenue and Taxation Code.
- C. To adopt a retail transactions and use tax ordinance that imposes a tax and provides a measure therefore that can be administered and collected by the California Department of Tax and Fee Administration in a manner that adapts itself as fully as practicable to, and requires the least possible deviation from, the existing statutory and administrative procedures followed by the California Department of Tax and Fee Administration in administering and collecting the California State Sales and Use Taxes.
- D. To adopt a retail transactions and use tax ordinance that can be administered in a manner that will be, to the greatest degree possible, consistent with the provisions of Part 1.6 of Division 2 of the Revenue and Taxation Code, minimize the cost of collecting the transactions and use taxes, and at the same time, minimize the burden of record keeping upon persons subject to taxation under the provisions of this Ordinance.

#### **8-2.1204 - Contract With State.**

Prior to the operative date, the City shall contract with the California Department of Tax and Fee Administration to perform all functions incident to the administration and operation of this transactions and use tax ordinance; provided, that if the City shall not have contracted with the California Department of Tax and Fee Administration prior to the operative date, it shall nevertheless so contract and in such a case the operative date shall be the first day of the first calendar quarter following the execution of such a contract.

#### **8-2.1205 - Transactions Tax Rate.**

For the privilege of selling tangible personal property at retail, a tax is hereby imposed upon all retailers in the incorporated territory of the City at the rate of one percent (1%) of the gross receipts of any retailer from the sale of all tangible personal property sold at retail in said territory on and after the operative date of this Ordinance.

#### **8-2.1206 - Place of Sale.**

For the purposes of this Ordinance, all retail sales are consummated at the place of business of the retailer unless the tangible personal property sold is delivered by the retailer or his agent to an out-of-state destination or to a common carrier for delivery to an out-of-state destination. The gross receipts from such sales shall include delivery charges, when such charges are subject to the state sales and use tax, regardless of the place to which delivery is made. In the event a retailer has no permanent place of business in the State or has more than one place of business, the place or places at which the retail sales are consummated shall be determined under rules and regulations to be prescribed and adopted by the California Department of Tax and Fee Administration.

**8-2.1207 - Use Tax Rate.**

An excise tax is hereby imposed on the storage, use or other consumption in the City of tangible personal property purchased from any retailer on and after the operative date of this Ordinance for storage, use or other consumption in said territory at the rate of one percent (1%) of the sales price of the property. The sales price shall include delivery charges when such charges are subject to state sales or use tax regardless of the place to which delivery is made.

**8-2.1208 - Adoption of Provisions of State Law.**

Except as otherwise provided in this Ordinance and except insofar as they are inconsistent with the provisions of Part 1.6 of Division 2 of the Revenue and Taxation Code, all of the provisions of Part 1 (commencing with Section 6001) of Division 2 of the Revenue and Taxation Code are hereby adopted and made a part of this Ordinance as though fully set forth herein.

**8-2.1209 - Limitations on Adoption of State Law and Collection of Use Taxes.**

In adopting the provisions of Part 1 of Division 2 of the Revenue and Taxation Code:

A. Wherever the State of California is named or referred to as the taxing agency, the name of this City shall be substituted therefor. However, the substitution shall not be made when:

1. The word "State" is used as a part of the title of the State Controller, State Treasurer, State Treasury, or the Constitution of the State of California;
2. The result of that substitution would require action to be taken by or against this City or any agency, officer, or employee thereof rather than by or against the California Department of Tax and Fee Administration, in performing the functions incident to the administration or operation of this Ordinance;

3. In those sections, including, but not necessarily limited to sections referring to the exterior boundaries of the State of California, where the result of the substitution would be to:
    - a. Provide an exemption from this tax with respect to certain sales, storage, use or other consumption of tangible personal property which would not otherwise be exempt from this tax while such sales, storage, use or other consumption remain subject to tax by the State under the provisions of Part 1 of Division 2 of the Revenue and Taxation Code, or;
    - b. Impose this tax with respect to certain sales, storage, use or other consumption of tangible personal property which would not be subject to tax by the state under the said provision of that code.
  4. In Sections 6701, 6702 (except in the last sentence thereof), 6711, 6715, 6737, 6797 or 6828 of the Revenue and Taxation Code.
- B. The word "City" shall be substituted for the word "State" in the phrase "retailer engaged in business in this State" in Section 6203 and in the definition of that phrase in Section 6203.
1. "A retailer engaged in business in the District" shall also include any retailer that, in the preceding calendar year or the current calendar year, has total combined sales of tangible personal property in this state or for delivery in the State by the retailer and all persons related to the retailer that exceeds Five Hundred Thousand Dollars (\$500,000). For purposes of this section, a person is related to another person if both persons are related to each other pursuant to Section 267(b) of Title 26 of the United States Code and the regulations thereunder.

### **8-2.1210 - Permit Not Required.**

If a seller's permit has been issued to a retailer under Section 6067 of the Revenue and Taxation Code, an additional transactor's permit shall not be required by this Ordinance.

### **8-2.1211 - Exemptions and Exclusions.**

- A. There shall be excluded from the measure of the transactions tax and the use tax the amount of any sales tax or use tax imposed by the State of California or by any city, city and county, or county pursuant to the Bradley-Burns Uniform Local Sales and Use Tax Law or the amount of any state-administered transactions or use tax.
- B. There are exempted from the computation of the amount of transactions tax the gross receipts from:
  - 1. Sales of tangible personal property, other than fuel or petroleum products, to operators of aircraft to be used or consumed principally outside the county in which the sale is made and directly and exclusively in the use of such aircraft as common carriers of persons or property under the authority of the laws of this State, the United States, or any foreign government.
  - 2. Sales of property to be used outside the City which is shipped to a point outside the City, pursuant to the contract of sale, by delivery to such point by the retailer or his agent, or by delivery by the retailer to a carrier for shipment to a consignee at such point. For the purposes of this paragraph, delivery to a point outside the City shall be satisfied:
    - a. With respect to vehicles (other than commercial vehicles) subject to registration pursuant to Chapter 1 (commencing with Section 4000) of Division

3 of the Vehicle Code, aircraft licensed in compliance with Section 21411 of the Public Utilities Code, and undocumented vessels registered under Division 3.5 (commencing with Section 9840) of the Vehicle Code by registration to an out-of-City address and by a declaration under penalty of perjury, signed by the buyer, stating that such address is, in fact, his or her principal place of residence; and

b. With respect to commercial vehicles, by registration to a place of business out-of-City and declaration under penalty of perjury, signed by the buyer, that the vehicle will be operated from that address.

3. The sale of tangible personal property if the seller is obligated to furnish the property for a fixed price pursuant to a contract entered into prior to the operative date of this Ordinance.

4. A lease of tangible personal property which is a continuing sale of such property, for any period of time for which the lessor is obligated to lease the property for an amount fixed by the lease prior to the operative date of this Ordinance.

5. For the purposes of Subparagraphs (3) and (4) of this Section, the sale or lease of tangible personal property shall be deemed not to be obligated pursuant to a contract or lease for any period of time for which any party to the contract or lease has the unconditional right to terminate the contract or lease upon notice, whether or not such right is exercised.

C. There are exempted from the use tax imposed by this Ordinance, the storage, use or other consumption in this City of tangible personal property:

1. The gross receipts from the sale of which have been subject to a transactions tax under any state-administered transactions and use tax ordinance.
2. Other than fuel or petroleum products purchased by operators of aircraft and used or consumed by such operators directly and exclusively in the use of such aircraft as common carriers of persons or property for hire or compensation under a certificate of public convenience and necessity issued pursuant to the laws of this State, the United States, or any foreign government. This exemption is in addition to the exemptions provided in Sections 6366 and 6366.1 of the Revenue and Taxation Code of the State of California.
3. If the purchaser is obligated to purchase the property for a fixed price pursuant to a contract entered into prior to the operative date of this Ordinance.
4. If the possession of, or the exercise of any right or power over, the tangible personal property arises under a lease which is a continuing purchase of such property for any period of time for which the lessee is obligated to lease the property for an amount fixed by a lease prior to the operative date of this Ordinance.
5. For the purposes of Subparagraphs (3) and (4) of this Section, storage, use, or other consumption, or possession of, or exercise of any right or power over, tangible personal property shall be deemed not to be obligated pursuant to a contract or lease for any period of time for which any party to the contract or lease has the unconditional right to terminate the contract or lease upon notice, whether or not such right is exercised.

6. Except as provided in Subparagraph (7), a retailer engaged in business in the City shall not be required to collect use tax from the purchaser of tangible personal property, unless the retailer ships or delivers the property into the City or participates within the City in making the sale of the property, including, but not limited to, soliciting or receiving the order, either directly or indirectly, at a place of business of the retailer in the City or through any representative, agent, canvasser, solicitor, subsidiary, or person in the City under the authority of the retailer.
  7. "A retailer engaged in business in the City" shall also include any retailer of any of the following: vehicles subject to registration pursuant to Chapter 1 (commencing with Section 4000) of Division 3 of the Vehicle Code, aircraft licensed in compliance with Section 21411 of the Public Utilities Code, or undocumented vessels registered under Division 3.5 (commencing with Section 9840) of the Vehicle Code. That retailer shall be required to collect use tax from any purchaser who registers or licenses the vehicle, vessel, or aircraft at an address in the City.
- D. Any person subject to use tax under this Ordinance may credit against that tax any transactions tax or reimbursement for transactions tax paid to a district imposing, or retailer liable for a transactions tax pursuant to Part 1.6 of Division 2 of the Revenue and Taxation Code with respect to the sale to the person of the property the storage, use or other consumption of which is subject to the use tax.

### **8-2.1212- Amendments.**

All amendments subsequent to the effective date of this Ordinance to Part 1 of Division 2 of the Revenue and Taxation Code relating to sales and use taxes and which are not inconsistent with Part 1.6 and Part 1.7 of Division 2 of the Revenue and Taxation Code, and all amendments to Part 1.6 and Part 1.7 of Division 2 of the Revenue and Taxation Code, shall automatically

become a part of this Ordinance, provided however, that no such amendment shall operate so as to affect the rate of tax imposed by this Ordinance.

#### **8-2.1213 - Enjoining Collection Forbidden.**

No injunction or writ of mandate or other legal or equitable process shall issue in any suit, action or proceeding in any court against the State or the City, or against any officer of the State or the City, to prevent or enjoin the collection under this Ordinance, or Part 1.6 of Division 2 of the Revenue and Taxation Code, of any tax or any amount of tax required to be collected.

#### **8-2.1214 - Annual Audit.**

Annually the City Council retains an independent auditor to conduct an audit of and provide audited financial statements for all of the City's financial activities. The auditor shall include an accounting of the revenue received from the tax in the audited financial statements. The auditor's report shall be presented to the City Council, be reviewed by the Oversight Board, made available on the City's website and made available to the public.

#### **8-2.1215 – Oversight Board**

The City Council shall appoint a nine (9) -member Oversight Board by June 30, 2023 to meet publicly at least semi-annually to review all revenues and expenditures of funds from the tax authorized by this Ordinance, review annual audit reports related to the tax measure, and make at least one (1) written annual report to the City Council at a public meeting summarizing the Oversight Board's findings. The Oversight Board shall consist of a representative from each Council district and three "at-large" Modesto residents. The City Council shall give strong preference to members that represent a cross-section of the community, possibly including, but not limited to, representatives of schools, local trade associations, chambers of commerce, nonprofit organizations, senior citizen groups, non-partisan political organizations (such as the

League of Women Voters), tax-payer association, and neighborhood organizations (including individuals retired from such groups).

#### **8-2.1216 – Amendments by City Council.**

The following amendments to this Ordinance must be approved by the voters of the City: increasing the tax rate or revising the methodology for calculating the tax such that a tax increase would result; imposing the tax on transactions and uses not previously subject to the tax (unless such amendment occurs automatically by operation of Section 8-2.1112); or extending the tax. The City Council may otherwise amend this Ordinance without submitting the amendment to the voters for approval.

#### **8-2.1217 – Termination Date.**

The authority to levy the tax imposed by this Ordinance shall expire when ended by the voters of the City.”

**SECTION 3. ADJUSTMENT OF APPROPRIATIONS LIMIT.** Pursuant to Article XIII B of the Constitution of the State of California and applicable laws, the appropriations limit for the City is hereby increased by the aggregate sum authorized to be levied by this tax for fiscal year 2022-23 and each year thereafter.

**SECTION 4. COMPLIANCE WITH THE CALIFORNIA ENVIRONMENTAL QUALITY ACT.** The approval of this Ordinance is exempt from the California Environmental Quality Act (Public Resources Code §§ 21000 et seq., “CEQA,” and 14 Cal. Code Reg. §§ 15000 et seq., “CEQA Guidelines”). This Ordinance imposes a general tax that can be used for any legitimate governmental purpose; it is not a commitment to any particular action. As such, under CEQA Guidelines section 15378(b)(4), the Ordinance is not a project within the meaning of CEQA because it creates a government funding mechanism that does not involve any commitment to

any specific project that may result in a potentially significant physical impact on the environment. If revenue from the tax were used for a purpose that would have either such effect, the City would undertake the required CEQA review for that particular project. Therefore, pursuant to CEQA Guidelines section 15060, CEQA analysis is not required.

**SECTION 5. SEVERABILITY.** If any provision of this Ordinance or the application thereof to any person or circumstance is held invalid, the remainder of the Ordinance and the application of such provision to other persons or circumstances shall not be affected thereby.

**SECTION 6. EFFECTIVE DATE.** This Ordinance relates to the levying and collecting of the City transactions and use taxes and shall take effect immediately upon applicable voter approval.

The foregoing Ordinance was adopted by City Council of the City of Modesto, subject to voter approval, on \_\_\_\_\_, 2022 by the following vote:

AYES:  
NOES:  
ABSENT:  
ABSTAIN:

\_\_\_\_\_  
SUE ZWAHLEN, Mayor

**ATTEST:**

\_\_\_\_\_  
DIANE NAYARES-PEREZ, City Clerk

**APPROVED AS TO FORM:**

\_\_\_\_\_  
JOSE M. SANCHEZ, City Attorney

5110148.6

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2022-298**

**RESOLUTION PLACING A MEASURE ON THE NOVEMBER 8, 2022  
GENERAL MUNICIPAL ELECTION BALLOT FOR VOTER  
CONSIDERATION OF AMENDMENTS TO THE CITY CHARTER;  
REQUESTING THE BOARD OF SUPERVISORS OF THE COUNTY OF  
STANISLAUS TO CONSOLIDATE THE MUNICIPAL ELECTION WITH THE  
GENERAL ELECTION TO BE HELD ON NOVEMBER 8, 2022, REQUESTING  
CERTAIN SERVICES OF THE REGISTRAR OF VOTERS OF STANISLAUS  
COUNTY WITH RESPECT TO THE CONSOLIDATED GENERAL  
MUNICIPAL ELECTION; AND ESTABLISHING POLICIES AND  
PROCEDURES IN CONNECTION WITH SUCH AN ELECTION**

WHEREAS, the City of Modesto is a charter city existing under the laws of the State of California, and

WHEREAS, Section 1604 of the Charter of the City of Modesto provides that the City Council shall cause the Charter to be reviewed at least every ten (10) years, and

WHEREAS, on October 22, 2019, the City Council adopted Resolution 2019-487 establishing a Charter Review Committee and appointing seven (7) members of the public to serve on the Charter Review Committee, and

WHEREAS, the initial members of the Charter Review Committee recommended four (4) additional members of the public and two (2) alternates to serve on the Committee, and in February 2020, the City Council and such individuals served on the Charter Review Committee, and

WHEREAS, the Charter Review Committee met multiple times in 2020 and 2021, and conducted a review of the City Charter, and

WHEREAS, the Charter Review Committee submitted a report to the City Council, dated August 10, 2021, listing several recommended changes to the City Charter, and

WHEREAS, the Charter Review Committee's report identified five (5) key recommendations for the proposed changes to the Charter concerning: changing the timing of the Mayor's elections, strengthening and further defining the Office of the City Auditor, adding the Audit Committee to the City Charter, eliminating the residency requirement for the City Manager, and adjusting the timeline for preparation and adoption of the annual budget, along with several other minor changes, and

WHEREAS, the City Council considered the recommendations from the Charter Review Committee at two (2) workshops on November 29, 2021 and January 12, 2022, and thereafter directed staff to prepare an item to place many of the changes to the Charter recommended by the Charter Review Committee on the November 2022 ballot, and

WHEREAS, the City's Charter is similar to a constitution for the City of Modesto, and regulates how the City operates, in addition to the State Constitution and applicable state laws, and

WHEREAS, it is important to review and update the City's Charter from time to time in order to ensure the Charter reflects best practices for local government and to promote the efficient, principled, and transparent operation of the City's government, and

WHEREAS, the City Council desires to submit the proposed changes to the Charter to the voters of the City of Modesto for consideration and approval, and

WHEREAS, the City Council, pursuant to Resolution 2022-248, called for a General Municipal Election to be held on and consolidated with the November 8, 2022 general election and for the Stanislaus County Elections Department to conduct such

election on behalf of the City, and the Council now desires to include this Measure on the ballot at said election, and

WHEREAS, the City Council has authority to submit the proposed measure to the voters of the City of Modesto pursuant to Article XI, Sections 3 and 5 of the California Constitution and California Elections Code Sections 9222 and 9255 and California Government Code Section 34458.

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

**SECTION 1. Recitals.** The foregoing recitals are true and correct and are hereby incorporated by reference.

**SECTION 2. Placement of Measure on the Ballot.** Pursuant to the requirements of the laws of the State of California, the City Council hereby calls an election at which it shall submit to the qualified voters of the City of Modest a measure that, if approved by a majority vote, would amend the Charter of the City of Modesto. This Measure shall be designated by letter by the Stanislaus County Registrar of Voters. Pursuant to California Elections Code Section 10400 et seq., the election for this Measure shall be consolidated with the established statewide election to be conducted on November 8, 2022. The question shall appear and be printed on the ballot as follows:

<p><b>To promote efficiency, transparency, and modernization of City government, shall the Charter of the City of Modesto be amended to increase and clarify the powers and duties of the City Auditor, create a permanent audit committee, change the timing of the mayoral election to coincide with the statewide primary and general election, adjust the timeline for preparation and adoption of the annual budget, and make several other minor changes?</b></p>	<p><b>YES</b></p>	
	<p><b>NO</b></p>	

**SECTION 3. Approval of Charter Amendments.** The full text of the proposed amendments to the City Charter to be submitted to the voters is **attached** as **Exhibit A** (proposed City Charter) (the “Measure”) hereto, and shall be made available to the public upon request. The Measure shall be completely printed in the voter pamphlet. If a simple majority of the qualified voters voting on the Measure vote in favor, therefore, the amendments to the Charter shall be approved and the Measure shall be deemed adopted upon the City Council’s declaration of the results of the election. The amendments to the Charter shall take effect when accepted and filed by the California Secretary of State pursuant to Government Code section 34460.

**SECTION 4. Publication of Measure.** The City Clerk is hereby directed to cause notice of the Measure to be published once in *The Modesto Bee*, the official newspaper of said City and a newspaper of general circulation printed and published in said City, in accordance with Section 12111 of the Elections Code and Section 6061 of the Government Code.

**SECTION 5. Request to Consolidate and Conduct Election and Canvass Returns.**

(a) Pursuant to the requirements of Section 10403 of the Elections Code, the Board of Supervisors of the County of Stanislaus is hereby requested to consent and agree to the consolidation of a General Municipal Election with the statewide election on Tuesday, November 8, 2022, for the purpose of placing the Measure set forth in Section 1 on the ballot. The City Council acknowledges that the consolidated election will be conducted in the manner prescribed in Elections Code Section 10418 and all other applicable laws.

(b) The County of Stanislaus Election Department is authorized to canvass the returns of the regularly scheduled General Municipal Election. The election shall be held in all respects as if there were only one (1) election, and only one (1) form of ballot shall be used.

(c) The Board of Supervisors is requested to issue instructions to the Stanislaus County Registrar of Voters to take any and all steps necessary for the holding of the consolidated election.

(d) The City recognizes that additional costs will be incurred by the County of Stanislaus by reason of this consolidation and agrees to reimburse the County for any additional costs above and beyond those reimbursed by the State.

**SECTION 6. Submission of Ballot Arguments and Impartial Analysis.**

(a) The last day for submission of direct arguments for or against the Measure shall be by 5:00 p.m. on July 12, 2022.

(b) The last day for submission of rebuttal arguments for or against the Measure shall be by 5:00 p.m. on July 22, 2022.

(c) Direct arguments shall not exceed three hundred (300) words and shall be signed by not more than five (5) persons.

(d) Rebuttal arguments shall not exceed two hundred fifty (250) words and shall be signed by not more than five (5) persons; those persons may be different persons than the persons who signed the direct arguments.

(e) The City Attorney shall prepare an impartial analysis of the Measure by July 22, 2022.

(f) Pursuant to California Elections Code Section 9282, the Mayor is hereby authorized to prepare and file a written argument in favor of the proposed measure, not to exceed three hundred (300) words, on behalf of the City Council. At the Mayor's discretion, the argument may be signed by any combination of members of the City Council or bona fide associations of citizens or by individual voters who are eligible to vote on the Measure. In the event that an argument is filed against the Measure, the Mayor is also authorized to prepare a rebuttal argument on behalf of the City Council, which may also be signed by any combination of members of the City Council or bona fide associations of citizens or by individual voters who are eligible to vote on the Measure, and who may be different from the signers of the direct argument. Submissions by email or facsimile are allowed for direct arguments, and rebuttal arguments that are signed and otherwise meet the above requirements and the California Elections Code provided that the original copy thereof is delivered to the City Clerk within twenty-four (24) hours of submission of the electronic version.

(g) Pursuant to California Elections Code Section 9285, when the City Clerk has selected the arguments for and against the Measure, which will be printed and

distributed to the voters, the City Clerk shall send copies of the argument in favor of the Measure to the authors of the argument against, and copies of the argument against to the authors of the argument in favor. Rebuttal arguments shall be printed in the same manner as the direct arguments. Each rebuttal argument shall immediately follow the direct argument which it seeks to rebut.

**SECTION 7. Effective Date.** This Resolution shall become effective immediately upon its passage and adoption. The City Clerk is directed to file a certified copy of this Resolution with the Board of Supervisors of Stanislaus County and the Stanislaus County Elections Department. The City Clerk is hereby authorized and directed to take all steps necessary to place the Measure on the ballot and to, prepare all required notices related to the ballot measure, and to publish such notices as required by law.

**SECTION 8. CEQA.** The approval of this Resolution is exempt from the California Environmental Quality Act (Public Resources Code §§ 21000 et seq., “CEQA,” and 14 Cal. Code Reg. §§ 15000 et seq., “CEQA Guidelines”) pursuant to under the general rule in CEQA Guidelines section 15061(b)(3) that CEQA only applies to projects that have the potential for causing a significant effect on the environment. The Measure to submitted to the voters will make certain amendments to the City’s Charter regarding the administration and operation of City, and does not authorize any project or particular action. It can be seen with certainty that there is no possibility that the Resolution will have a significant effect on the environment.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 28th day of June, 2022, by Councilmember Escutia-Braaton, who moved its adoption, which motion being duly seconded by Councilmember Wright, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Escutia-Braaton, Kenoyer, Madrigal, Ricci, Wright, Mayor Zwahlen

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST.   
DIANE NAYARÉS-PÉREZ, CMC,  
City Clerk

(SEAL)

APPROVED AS TO FORM:

BY:   
JOSE M. SANCHEZ, City Attorney

## EXHIBIT A

### AMENDMENT TO THE CITY OF MODESTO CITY CHARTER MAKING CHANGES TO PROMOTE EFFICIENCY, TRANSPARENCY, AND MODERNIZATION OF CITY GOVERNMENT

The people of the City of Modesto do hereby amend the Charter of the City of Modesto as follows:

#### SECTION I. Amendment of Section 300

Section 300, Regular Municipal Elections, of the Modesto Charter is amended to read as follows (with additions underlined and deletions in ~~striketrough~~):

##### “SECTION 300. REGULAR MUNICIPAL ELECTIONS.

Regular Municipal Elections for the election of officers, other than the elective office of Mayor, and for such other purposes as the Council may prescribe shall be held biennially on the first Tuesday after the first Monday in November of each even-numbered year, to coincide with the statewide general election.

~~To transition to even-numbered year elections, the municipal election normally held in November 2019 shall be moved to November 2020 and the municipal election normally held in November 2021 shall be moved to November 2022. This transition results in a one-time, one-year extension of the terms of city council members elected in November 2015, the mayor elected in the November 2015 election which resulted in his election in the February 2016 run-off election, and the city council members elected in the November 2017 election.~~

Regular municipal elections for the elective office of Mayor shall coincide with the date of the statewide primary election in even-numbered years. If, at said a regular municipal election held on the first Tuesday, after the first Monday in November of each even-numbered year for the Office of Mayor, held on the date of the statewide primary election, no candidate for the elective office of Mayor for the City of Modesto receives a majority of the valid votes cast for said office at said regular municipal election, a run-off election shall be held for said office on the first Tuesday after the first Monday in November of that year to coincide with the regular municipal election of the elective offices of the other members of Council in February of each odd-numbered year commencing with the Mayoral election held in November 2020. At said run-off election, the two (2) candidates for the elective office of Mayor receiving the highest number of votes at the prior municipal election shall have their names placed on the ballot for election to said office.”

#### SECTION II. Amendment of Section 501

Section 501(a), Method of Election, of the Modesto Charter is amended to read as follows (with additions underlined and deletions in ~~striketrough~~):

**“SECTION 501 – METHOD OF ELECTION.**

(a) Mayor. The Mayor shall be elected at the regular municipal election on a general ticket from the City at large, as set forth under Section 300 of this Charter.”

**SECTION III. Amendment of Section 501**

Section 501(b)(4), Method of Election, of the Modesto Charter is amended to read as follows (with additions underlined and deletions in ~~striketrough~~):

**“(4) Criteria for Districting.** To ensure fair and effective representation for all citizens of the City, the Commission, in recommending a districting or redistricting plan, and the Council, in approving or rejecting a districting or redistricting plan, shall consider the following criteria for the districts to the extent practicable and permissible under federal and state law:

- (A) district boundaries should be geographically compact and contiguous;
- (B) district boundaries should follow visible natural and man-made features;
- (C) district boundaries should respect communities of interest. A community of interest is defined as a geographic area comprised of residents who share similar interests including, but not limited to, social, cultural, ethnic, geographic or economic interests, or formal government or quasi-governmental relationships, but not including relationships with political parties, incumbents, or candidates;
- (D) district boundaries should be drawn without regard for advantage or disadvantage to incumbents or challengers;
- (E) district boundaries should be drawn without regard for advantage or disadvantage to any political party.”

**SECTION IV. Amendment of Section 600**

Section 600, Term of Office, of the Modesto Charter is amended to read as follows (with additions underlined and deletions in ~~striketrough~~):

**“ SECTION 600 – TERM OF OFFICE.**

The Mayor shall hold office for a term of four (4) years, from and after the first Tuesday following the election of members of the Council in November, regardless of whether or not a run-off election for the office of Mayor occurs. If a tie vote makes it impossible to determine which of two (2) or more candidates has been elected, said tie shall be settled by the drawing of lots, the procedure for which shall be determined by the Council. The Mayor shall have the right to vote on all matters coming before the Council. less any time required between a November election and a February run-off election, from and after the first Tuesday following the Mayor's election and until the Mayor's successor is qualified and elected. To allow for a transition to even-numbered year elections as required by state law, the term for the Mayor elected in the November 2015 election which resulted in his election in February 2016 shall be extended by one year to accommodate moving the November 2019 election to November 2020.”

## **SECTION V. Amendment of Section 601**

Section 601(k), Powers and Duties of Mayor, of the Modesto Charter is amended to read as follows (with additions underlined and deletions in ~~strikethrough~~):

“(k) The Mayor shall prepare and deliver the Mayor's Proposed Budget Priorities and Direction and the Mayor's Budget Message pursuant to Section ~~1302A~~ 1302.1 of the Charter and the Mayor's Final Budget Modifications pursuant to Section 1303 of the Charter;”

## **SECTION VI. Amendment of Section 702**

Section 702, Vacancies, of the Modesto Charter is amended to read as follows (with additions underlined and deletions in ~~strikethrough~~):

### **“SECTION 702. - COUNCIL VACANCIES.**

If a vacancy shall occur in the office of Mayor or Councilmember, the Council shall forthwith appoint a person to fill such vacancy. Said appointee shall possess such qualifications for eligibility as are set forth in Section 701 of this article and shall hold office until a successor is duly elected and qualified. Such successor shall be chosen at the next regular municipal election, or as otherwise may be required by recall proceedings instituted involving the office of Mayor or a Councilmember.

In the event that the Council shall fail to fill a vacancy by appointment within sixty (60) ~~thirty (30)~~ days after such office shall have become vacant, it shall forthwith cause an election to be held to fill such vacancy.”

## **SECTION VII. Amendment of Section 800**

Section 800, City Manager, of the Modesto Charter is amended to read as follows (with additions underlined and deletions in ~~strikethrough~~):

### **SECTION 800. – CITY MANAGER**

“There shall be a City Manager who shall be the chief executive officer and head of the Administrative Branch of the City government. The City Manager shall be chosen on the basis of the person's executive and administrative qualifications with special reference to the person's actual experience in, or the person's knowledge of accepted practices with respect to the duties of the office as hereinafter set forth. No member of the Council shall be eligible for appointment to the office of City Manager during the term for which the member shall have been elected or appointed, nor within one (1) year thereafter. ~~The City Manager need not be a resident of the City or State at the time of appointment, but during the City Manager's tenure of office, the City Manager shall reside within the City.~~

When a vacancy occurs, the Mayor shall nominate at least two (2) candidates for Council consideration for appointment to the position of City Manager. The Mayor may express to the Council a preference among final candidates. The Council shall appoint the City Manager for an indefinite term and may remove the City Manager by a majority vote of its members; provided, however, that the City Manager shall not be removed from office during or within a period of ninety (90) days next succeeding the election of a member of the Council. The purpose of this provision is to allow any newly elected member of the Council to observe the actions and ability of the City Manager in the performance of powers and duties of this office.”

## **SECTION VIII. Amendment of Section 902.1**

Section 902.1, Office of the City Auditor, of the Modesto Charter is amended to read as follows (with additions underlined and deletions in ~~striketrough~~):

### **“SECTION 902.1 OFFICE OF THE CITY AUDITOR**

The Office of the City Auditor is hereby established. The City Council shall appoint the City Auditor ~~who shall serve at its pleasure. The City Auditor shall be certified according to standards comparable to a Certified Public Accountant or a Certified Internal Auditor at time of appointment.~~

A. Qualifications. The City Auditor shall possess adequate professional proficiency for the job, demonstrated by relevant certifications such as Certified Internal Auditor (CIA), Certified Public Accountant (CPA), or Chartered Accountant (CA), or have an advanced degree and at least five (5) years of experience in government auditing, evaluation, or analysis.

B. Appointment. Within thirty (30) days of a vacancy, the Mayor shall initiate the recruitment process by recommending the selection of a recruitment firm or other recruitment process, and the Council shall thereafter appoint a City Auditor as soon as practicable. The Council shall appoint the City Auditor for an indefinite term.

C. The City Auditor shall have the following powers and duties:

(1) The Auditor shall have authority to conduct financial and performance audits of all departments, offices, boards, activities, agencies and programs of the City in order to independently and objectively determine whether:

- i. Activities and programs being implemented have been authorized by government Charter or Code, state law or applicable federal law or regulations and are being conducted and funds expended in compliance with applicable laws;
- ii. The department, office, or agency is acquiring, managing, protecting, and using its resources, including public funds, personnel, property, equipment, and space, economically, efficiently, equitably, and effectively and in a manner consistent with the objectives intended by the City Council or enabling legislation;

- iii. The entity, programs, activities, functions, or policies are effective, including the identification of any causes of inefficiencies or uneconomical practices;
- iv. The desired result or benefits as intended by the City Council are being achieved;
- v. Financial and other reports are being provided that disclose fairly, accurately, and fully all information required by law, to ascertain the nature and scope of programs and activities, and to establish a proper basis for evaluating the programs and activities including the collection of, accounting for, and depositing of, revenues and other resources;
- vi. Management has established adequate operating and administrative procedures and practices, systems or accounting internal control systems and internal management controls; and
- vii. Indications of fraud, abuse or illegal acts are valid and need further investigation

~~(a) Conduct or cause to be conducted annual post audits of all the fiscal transactions and accounts kept by or for the City. Such audits shall include but not be limited to the examination and analysis of fiscal procedures and the examination, checking and verification of accounts and expenditures. The audits shall be conducted in accordance with generally accepted auditing standards and accordingly shall include tests of the accounting records and other auditing procedures as may be considered necessary under the circumstances. The audits shall include the issuance of suitable reports of examination so the Council and the public will be informed as to the adequacy of the financial statements of the City.~~

~~(b) Conduct performance audits, as assigned by Council. A "performance audit" means a post audit which determines with regard to the purpose, functions and duties of the audited agency all of the following:~~

~~(1) Whether the audited department, office or agency, is managing or utilizing its resources, including public funds, personnel, property, equipment and space in an economical and efficient manner.~~

~~(2) Causes of inefficiencies or uneconomical practices, including inadequacies in management information systems, internal and administrative procedures, organizational structure, use of resources, allocation of personnel, purchasing policies and equipment.~~

~~(3) Whether the desired results are being achieved.~~

~~(4) Whether objectives established by the Council or other authorizing body are being met.~~

~~(2e) Conduct special audits and investigations, as requested assigned by the Council. "Special audits and investigations" mean assignments of limited scope, intended to determine:~~

- i. The accuracy of information provided to the Council.
- ii. The costs and consequences of recommendations made to the Council.

~~(3) Other information concerning the performance of City Departments, Offices or Agencies as requested by the Council.~~

D. Standards. Audits shall be conducted in accordance with recognized government auditing standards.

E. Funding. Sufficient funds shall be proposed and approved to carry out the responsibilities specified herein. The Office of the City Auditor's budget shall be submitted to Council in accordance with the City's annual budget process.

F. Staffing. The City Auditor may appoint and prescribe the duties of the professional, technical, and clerical employees employed in the Office of the City Auditor; provided, however, that the City Auditor shall not appoint to any position any business associate or any person related to him or her or to the City Manager or to any member of the Council by blood or marriage within the second degree. All such appointees shall serve at the pleasure of the City Auditor in the Unclassified Service; and shall serve under such terms and conditions, salaries and benefits as are similar to other employees in the City's service. In the event an employee of the City, who holds a Classified Service position, is appointed to a position in the Unclassified Service under this Section, he or she may return to a position in the Classified Service. Such return to the Classified Service shall be without loss of any rights or privileges that currently pertain to the Classified Service.

Neither the Council nor any of its members shall in any manner dictate the appointment or removal of any such officer or employee whom the City Auditor is empowered to appoint, but the Council may express its views and fully and freely discuss with the City Auditor anything pertaining to the appointment and removal of such officers and employees. Nor may any person coerce or attempt to coerce the City Auditor relative to the City Auditor's work.

(Gd) Access. The City Auditor shall have, unless prohibited by law, access to, and authority to examine any and all documents including but not limited to books, accounts, internal memoranda, writings and tapes, reports, vouchers, correspondence files and other records, bank accounts, money and other property of any City department, office or agency, whether created by the Charter or otherwise, with the exception of the office of any elected official. It is the duty of any officer, employee or agent of the City having control of such records to permit access to, and examination thereof, upon the request of the City Auditor or his or her authorized representative. It is also the duty of any such officer, employee or agent to fully cooperate with, and to make full disclosure of all pertinent information.

H. Audit Schedule. At the beginning of each fiscal year, the Auditor shall submit a one (1) to five (5) year audit schedule to the Audit Committee and Council for review and comment. The schedule shall include the proposed plan, and the rationale for the selections, for auditing departments, offices, boards, activities, subcontractors, and agencies for the period. This schedule may be amended after review with the Audit Committee and Council, but the Auditor shall have final authority to select the audits planned.

I. Reports. Each audit will result in a report, written or in some other retrievable form. The report shall contain relevant background information and findings, and recommendations. The Auditor shall prepare and submit to the Audit Committee, at their regularly scheduled public meetings, quarterly reports or updates of the City Auditor's activities and findings.

together with any recommendations requiring immediate action to improve the administration of the City.

J. Report of Irregularities. If, during an audit, the Auditor becomes aware of abuse or illegal acts or indications of such acts that could affect the City, the Auditor shall report the irregularities to the Audit Committee or appropriate law enforcement authority, as appropriate.

~~(e) Prepare and submit to the Council quarterly reports of the City Auditor's activities and findings in the immediately preceding three calendar months, together with any recommendations to improve the administration of the City.~~

~~(f) Perform other auditing functions, consistent with other provisions of this Charter, and prepare and submit such other reports, as may be assigned by the Council.~~

~~The City Auditor may appoint and prescribe the duties of the professional, technical and clerical employees employed in the Office of the City Auditor; provided, however, that the City Auditor shall not appoint to any position any business associate or any person related to him or her or to the City Manager or to any member of the Council by blood or marriage within the second degree. All such appointees shall serve at the pleasure of the City Auditor in the Unclassified Service; and shall serve under such terms and conditions, salaries and benefits as are similar to other employees in Modesto's service. In the event an employee of the City who holds a Classified Service position is appointed to a position in the Unclassified Service under this Section, he or she may return to a position in the Classified Service. Such return to the Classified Service shall be without loss of any rights or privileges that currently pertain to the Classified Service.~~

~~Neither the Council nor any of its members shall in any manner dictate the appointment or removal of any such officer or employee whom the City Auditor is empowered to appoint, but the Council may express its views and fully and freely discuss with the City Auditor anything pertaining to the appointment and removal of such officers and employees.~~

## **SECTION IX.           Addition of Section 902.2**

Section 902.2, Audit Committee, is hereby added to the Modesto Charter to read as follows:

### **902.2 Audit Committee**

(a) Purpose and Duties. The purpose of the Audit Committee is to advise the City Council on items related to the work of the City Auditor and the City's financial statement audits. Among other duties, the Audit Committee shall:

- (1) Review the Auditor's audit plan annually and submit annually to the City Council;
- (2) Provide suggestions and comments for the annual audit plan;
- (3) Review and consult with the Auditor on quarterly reports or updates of the City Auditor's activities and findings;

- (4) Report irregularities raised by the Auditor to the City Council;
- (5) Ensure that audit reports are transmitted to the legislative body and to the public;
- (6) Monitor follow-up on reported findings to assure corrective action is taken by management;
- (7) Report to the legislative body on problems or problem areas at such times as deemed appropriate;
- (8) Provide input on, and participate in, the selection of the firm conducting the annual financial statement audits; and
- (9) Review and forward to the City Council materials related to the City's annual financial statement audit conducted pursuant to Section 1306 of this Charter.

(b) Audit Committee Composition:

- (1) The Audit Committee shall be comprised of the Mayor, two (2) members of the City Council, and two (2) members of the public who are residents of the City of Modesto and shall possess a minimum of two (2) years of experience in financial or performance auditing. Strong consideration shall be given to residents who are Certified Public Accountants.
- (2) No public member of the Committee shall be a relative by blood or marriage to the third degree of the mayor, member of the Council, any Charter Officer, or any department head or deputy department head.
- (3) No public member of the Committee shall be an employee of the City nor any bargaining unit for employees of the City, nor a person who receives compensation from the City or from bargaining units of the City in any manner, including retirement benefits.
- (4) No public member of the Committee shall be a lobbyist or other person with business before the City that represents an economic interest in excess of the limit for material financial effect established by local ordinance for the time periods established by local ordinance.
- (5) Public members of the Committee shall serve without compensation.”

**SECTION X. Amendment of Section 1104**

Section 1104, Meetings. Chairpersons. is amended to read as follows (with additions underlined and deletions in ~~strike through~~):

**“SECTION 1104. - MEETINGS. CHAIRPERSONS.**

As soon as practicable following the first day of January of each year, each of such boards and commissions shall organize by electing one of its members to serve as chairperson at the pleasure of such board or commission. Whenever a special meeting of any board or commission shall be called, the secretary shall cause written notice of such meeting to be given to each member of such board or commission and to each local newspaper of general circulation, radio or television station requesting notice in writing. Such notice must be delivered personally or must be deposited in the United States mail, postage prepaid, at least twenty-four (24) hours before the time of such meeting as specified in the notice. The notice and order shall specify the time and place of the special meeting and the business to

be transacted. No other business shall be considered at such meetings by said boards or commissions.

Written notice to each member of any board or commission may be dispensed with as to any member of any board or commission who, at or prior to the time the meeting convenes, files with the Secretary of such board or commission a written waiver of notice. The waiver may be given by telegram. The written notice may also be dispensed with as to any member of any board or commission who is actually present at the meeting at the time it convenes.

The affirmative or negative vote of a majority of the entire membership of such board or commission shall be necessary for it to take action.

Unless otherwise provided by the Council, or by this Charter, the City Manager shall provide a secretary for the recording of the minutes of each of such boards and commissions who shall keep a record of its proceedings and transactions. ~~Each board and commission shall prepare and submit to the Council an annual report of its activities. Such report shall be made on the fiscal year basis and shall be submitted on or before September 1 of each year. Each board or commission shall prescribe its own procedural rules and regulations which shall be consistent with this Charter and copies of which shall be kept on file in the office of the City Clerk where they shall be available for public inspection.~~”

## **SECTION XI. Amendment of Section 1108**

Section 1108, Board of Personnel Appeals is amended to read as follows (with additions underlined and deletions in ~~strikethrough~~):

### **“SECTION 1108 – BOARD OF PERSONNEL APPEALS**

There shall be a Board of Personnel Appeals consisting of three (3) members. The Board of Personnel Appeals shall have the power and duty to:

(a) Select a hearing officer to hear the appeals of any person in the classified service relative to any suspension, demotion or dismissal, so long as a separate and distinct procedure has not been delineated by a valid and existing Memorandum of Understanding.

(b) Act in an advisory capacity to the City Manager on such personnel matters as may be referred to it by the City Manager.

The Board of Personnel Appeals and its duties and obligations hereunder shall not be operative, or in effect, during the period in which the California Public Employment Relations Board (PERB), or similar state agency or department, exercises the essential functions and duties prescribed for the Board of Personnel Appeals as contemplated herein.”

## **SECTION XII. Amendment of Section 1110**

Section 1110, Culture Commission is amended to read as follows (with additions underlined and deletions in ~~striketrough~~):

### **“SECTION 1110. - CULTURE COMMISSION.**

There shall be a Culture Commission with a membership established by the City Council. ~~consisting of seven (7) members, five (5) of whom shall be registered electors of the City, and two (2) of whom shall live outside the City but shall be registered electors of Stanislaus County.~~ The Commission shall have the power and duty to:

- (a) Act in an advisory capacity to the Council and the City Manager in all matters pertaining to art, literature, music and other cultural activities;
- (b) Formulate and recommend annually to the Council a program relating to art, literature, and music and other cultural activities;
- (c) Promote the preservation of historic sites, landmarks, documents, paintings and other objects associated with the history of the City and its area, and develop educational interest in all such historical matters;
- (d) Act in an advisory capacity to the Council, City Manager and Director of any Museum or Cultural Center that may be established by the Council.”

## **SECTION XIII. Amendment of Section 1111**

Section 1111, Human Relations Commission is amended to read as follows (with additions underlined and deletions in ~~striketrough~~):

### **“SECTION 1111. - HUMAN RELATIONS COMMISSION.**

There shall be a Human Relations Commission consisting of seven (7) members, five (5) of whom shall be registered electors of the City, and two (2) of whom shall live outside the City but shall be registered electors of Stanislaus County. The Commission shall have the power and duty to:

- (a) Act in an advisory capacity to the City Council in matters pertaining to human relations and behavior;
- (b) Formulate and recommend annually to the Council a program for furthering human relations in the community;
- (c) Perform such other duties with respect to human relations and behavior as the City Council may prescribe by ordinance or resolution.

(d) The City Council may, by resolution, assign another City commission with a similar function to carry out the power and duties of the Human Relations Commission.”

#### **SECTION XIV. Amendment of Section 1302.1**

Section 1302.1, Submission of Economic Forecasts; Mayor’s Budget Message, of the Modesto Charter is amended to read as follows (with additions underlined and deletions in ~~striketrough~~):

##### **“SECTION 1302.1. – SUBMISSION OF ECONOMIC FORECASTS: MAYOR’S BUDGET MESSAGE.**

The City Manager shall, on or before December 15 of each year, submit to the Mayor and to the Council a five (5) year economic forecast of expenditures and revenues for each City department, office or agency.

On or before January 10, the members of the Council may submit individual written budget priorities to the Mayor for consideration.

The Mayor shall, after consideration of any received written budget priorities ~~on or before January 15 of each year~~, prepare and deliver to the Council the Mayor's Proposed Budget Priorities and Direction for both the City's Capital Budget and for the City's Operating Budget.

~~The City Manager shall, on or before February 1 of each year, prepare and deliver to the Mayor and to the Council a Capital and Operating Mid-Year Budget Report for each City department, office or agency.~~

The Mayor shall, on or before February 15 of each year prepare and deliver to the Council the Mayor's Budget Message which shall include:

- (a) A statement of the fiscal priorities which the City should adopt for the ensuing fiscal year; and
- (b) Which City services, departments, offices or agencies the Mayor proposes to be expanded or reduced.

The Council shall hold a public hearing to consider the Final Mayor's Budget Message and to make any additions or revisions the Council deems advisable.

Upon close of the public hearing, the Council shall approve the Mayor's Budget Message as presented, or as revised.

The City Manager shall, on or before March 15 of each year, prepare and deliver to the Mayor and Council, a Capital and Operating Mid-Year Budget Report for each City department, office, or agency. ”

**SECTION XV. Amendment of Section 1303**

Section 1303, Mayor's Final Budget Modifications; Public Hearing on Proposed Budget, of the Modesto Charter is amended to read as follows (with additions underlined and deletions in ~~strikethrough~~):

**“SECTION 1303. – MAYOR’S FINAL BUDGET MODIFICATIONS; PUBLIC HEARING ON PROPOSED BUDGET.**

At least forty-five (45) ~~thirty (30)~~ days prior to the new fiscal year, the Mayor shall prepare and deliver to the Council the Mayor's Final Budget Modifications on the draft budget.

Following the receipt of the Mayor's Final Budget Modifications, the Council shall consider and review the draft budget as submitted by the City Manager together with the Mayor's Final Budget Modifications and may make such revisions as the Council may deem advisable. The document resulting from this process shall be deemed the "Proposed Budget."

Thereafter, the Council shall determine the time for holding of a public hearing upon the "Proposed Budget", and shall cause a notice thereof to be published not less than ten (10) days prior to said hearing by at least one (1) insertion in a newspaper of general circulation within the City.

Copies of the Proposed Budget to be considered at the public hearing shall be available for inspection by the public at the office of the City Clerk at least ten (10) days prior to said hearing.

At the time so advertised or at any time such public hearing from time to time be adjourned, the Council shall hold a public hearing on the proposed budget at which interested persons desiring to be heard shall be given such opportunity.

**SECTION XVI. Amendment of Section 1307**

Section 1307, Public Work to be Done by Contract, of the Modesto Charter is amended to read as follows (with additions underlined and deletions in ~~strikethrough~~):

**“SECTION 1307. - PUBLIC WORK TO BE DONE BY CONTRACT.**

Every project involving an expenditure of City moneys of more than the amount which the City Council shall establish by ordinance, for the construction or improvement of public buildings, works, drains, sewers, utilities, parks, playgrounds, and streets (exclusive of projects for resurfacing, maintenance and repair of streets, or any park or parks playground project otherwise subject to the public bidding requirements of this section that involves any donated labor and/or material) shall be let by contract to the lowest responsible bidder

after notice by publication in any or all methods permitted under state law, including in the official newspaper by one or more insertions, the first of which shall be at least seven (7) days before the time for opening bids.

All bids shall be accompanied by either a certified or cashier's check, or a bidder's bond executed by a corporate surety authorized to engage in such business in California, made payable to the City. Such security shall be in an amount not less than that specified in the notice inviting bids or in the specifications referred to therein, or if no amount be so specified then in an amount not less than ten (10) percent of the aggregate amount of the bid. If the successful bidder neglects or refuses to enter into the contract, within the time specified in the notice inviting bids or specifications referred to therein, the amount the person's bidder's security shall be declared forfeited to the City and shall be collected and paid into its general fund and all bonds so forfeited shall be prosecuted and the amount thereof collected and paid into such fund.

The Council may reject any and all bids presented and may readvertise in its discretion.

The Council after rejecting bids, or if no bids are received, may declare and determine that, in its opinion, based on estimates approved by the City Manager the work in question may be performed better or more economically by the City with its own employees and after the adoption of a resolution to this effect by at least five (5) affirmative votes of the Council may proceed to have said work done in the manner stated, without further observance of the provisions of this section. Such contracts likewise may be let without advertising for bids, if such work shall be deemed by the City Council to be of urgent necessity for the preservation of life, health or property and shall be authorized by resolution passed by at least five (5) affirmative votes of the Council and containing a declaration of the facts constituting such urgency.

Nothing in this section shall be construed to apply to the acquisition or purchase of electricity, electric power or electric energy by the City for any use or purpose.”

## **SECTION XVII. Amendment of Section 1311**

Section 1311, Contracts for Official Advertising, of the Modesto Charter is amended to read as follows (with additions underlined and deletions in ~~strikethrough~~):

### **“SECTION 1311. - CONTRACTS FOR OFFICIAL ADVERTISING.**

The Council shall let annually contracts for the official advertising for the ensuing fiscal year. Official advertising contracts may be let to digital or print platforms, as permitted under state law. The Council shall let the contracts for such official advertising to the lowest responsible bidder; provided, that the Council may reject any or all bids and advertise for new bids.

In the event the official advertising contract is to be let to a newspaper, if there is more than one (1) newspaper of general circulation published and circulated in the City, the Council shall advertise for one (1) day, setting forth distinctly and specifically the work

contemplated to be done, and asking for sealed proposals therefor. The proposals shall specify the type and spacing to be used at the rates named in the bids. ~~The Council shall let the contracts for such official advertising to the lowest responsible bidder~~ Any contracts let to a newspaper shall be to one publishing a newspaper in the City which is a newspaper of general circulation and has been in existence at the time of the awarding of the contract at least one year; ~~provided, that the Council may reject any or all bids and advertise for new bids.~~”

#### **SECTION XVIII. Amendment of Section 1313**

Section 1313, Purchase of Supplies and Equipment, of the Modesto Charter is amended to read as follows (with additions underlined and deletions in ~~striketrough~~):

#### **“SECTION 1313. - PURCHASE OF SUPPLIES AND EQUIPMENT.**

The Council, ~~by ordinance, within one (1) year following the adoption of this section,~~ shall, annually review by June 30, adopt policies and procedures governing, ~~including~~ bidding regulations and, governing purchases of supplies, services, and equipment by the City. Said policies and procedures may include provisions authorizing joint purchasing with other local governmental agencies. ~~Following the adoption of such policies and procedures, p~~ Purchases of supplies, services, and equipment by the City shall be made in accordance with such policies and procedures ~~therewith.~~”

#### **SECTION XIX. Severability**

If any provision of this amendment to the Modesto City Charter or the application thereof to any person or circumstance is held invalid, the remainder of the amendment, including the application of such part or provision to other persons or circumstances, shall not be affected thereby and shall continue in full force and effect. To this end, provisions of this amendment to the Modesto City Charter are severable. The People of the City of Modesto hereby declare that it would have passed each section, subsection, subdivision, paragraph, sentence, clause, or phrase hereof irrespective of the fact that any one or more sections, subsections, subdivisions, paragraphs, sentences, clauses, or phrases be held unconstitutional, invalid, or unenforceable.

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2022-299**

**RESOLUTION CONTINUING TO AUTHORIZE REMOTE  
TELECONFERENCE MEETINGS OF THE CITY OF MODESTO PURSUANT  
TO ASSEMBLY BILL 361**

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

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

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

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

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

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

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

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

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

WHEREAS, on September 28, 2021, the City Council adopted Resolution No. 2021-370 authorizing remote teleconference meetings pursuant to AB361 (Government Code section 54953(e)); and

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

WHEREAS, the City Council has considered the circumstances of the Governor’s state of emergency proclamation pursuant to Government Code section 8625, which remains active; and

WHEREAS, on March 8, 2022, the County of Stanislaus Board of Supervisors terminated the Declaration of a Local Health Emergency that was issued on March 11, 2020; and

WHEREAS, the Stanislaus County Public Health Services Agency still strongly recommends community members to wear a mask while in “any indoor public space” along with other recommendations intended to promote social distancing measures; and

WHEREAS, the City Council, acting for itself and for the benefit of all of the City’s commissions, committees, and other bodies (collectively referred to as the “Legislative Bodies”), does hereby find that the Legislative Bodies shall continue to conduct their meetings without compliance with Government Code section 54953(b)(3), as authorized by Government Code section 54953(e), and that the Legislative Bodies shall continue to comply with the requirements to provide the public with access to the meetings as prescribed in Government Code section 54953(e)(2) as a consequence of the ongoing state of emergency and the continued social distancing measures required by local officials.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF MODESTO DOES HEREBY RESOLVE AS FOLLOWS:

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

Section 2. Consideration of State of Emergency. The City Council has considered the conditions of the state of emergency declared pursuant to Government Code section 8625, and determined that such emergency conditions continue to be present in the City.

Section 3. Continued Social Distancing Measures by State and Local Officials.

The City Council finds that the County of Stanislaus Health Officer's recommended measures to promote social distancing remain in effect.

Section 4. Remote Teleconference Meetings. The City Council finds that the conditions continue to exist pursuant to Government Code section 54953(e)(3) to allow Legislative Bodies to use teleconferencing to hold public meetings in accordance with Government Code section 54953(e)(2) to ensure members of the public have continued access to safely observe and participate in local government meetings.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 12th day of July, 2022, by Councilmember Kenoyer, who moved its adoption, which motion being duly seconded by Councilmember Wright, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Escutia-Braaton, Kenoyer, Madrigal, Ricci, Wright, Mayor Zwahlen

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST:   
DIANE NAYARES-PHREZ, CMC,  
City Clerk

(SEAL)

APPROVED AS TO FORM:

BY:   
JOSE M. SANCHEZ, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2022-300**

**RESOLUTION AMENDING THE FISCAL YEAR 2021-22 ANNUAL  
OPERATING AND CAPITAL IMPROVEMENT FUND BUDGETS AND  
AUTHORIZING THE CITY MANAGER, TO TAKE THE NECESSARY STEPS  
TO IMPLEMENT THE PROVISIONS OF THIS RESOLUTION**

WHEREAS, a financial analysis has been completed and it has been determined that a budget adjustment is required to the Annual and Capital Improvement Budgets of the City of Modesto for Fiscal Year 2021-22.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves amending the Fiscal Year 2021-22 Annual Operating and Capital Improvement budget as shown in **Exhibit A**, which is **attached** hereto and incorporated by reference herein.

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 12th day of July, 2022, by Councilmember Kenoyer, who moved its adoption, which motion being duly seconded by Councilmember Wright, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Escutia-Braaton, Kenoyer, Madrigal, Ricci, Wright, Mayor Zwahlen

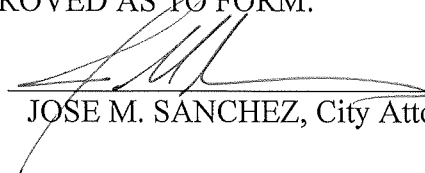
NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST:   
DIANE NAYARES-PEREZ, CMC,  
City Clerk

(SEAL)

APPROVED AS TO FORM:

BY:   
JOSE M. SANCHEZ, City Attorney

**EXHIBIT A**

**FISCAL YEAR 2021-22**

**CITY MANAGER’S OFFICE – BUDGET DIVISION**

- A budget adjustment is necessary to take to Council for the adjustments to the General Fund revenues that were taken to Finance Committee as part of the informational General Fund Mid-Year Update Report in February. The total adjustments approved by the Finance Committee as part of the informational General Fund Mid-Year Update report included increases to Sales Tax, Utility User Tax, Business License/Mill Tax and a decrease to revenues in the Fire Department for the First Responder Insurance Recovery Program revenue due to the delay of the enactment of that program. The recommended adjustments are being realized as anticipated and need to be accounted for via this monthly budget adjustment action and are outlined in the table below:

Category	Current Budget	Increase/(Decrease)	Revised Amount	Account - Description
Property Tax - VLF Swap	\$ 19,374,039	\$ 32,000	\$ 19,406,039	42157 - Intergov - State - VLF Swap Adjustment
Sales Tax	\$ 33,090,991	\$ 4,100,562	\$ 37,191,553	41201 - Sales and Use Taxes
Utility User Tax	\$ 20,510,000	\$ 200,000	\$ 20,710,000	41203 - Utility Users Tax
Business License/Mill Tax	\$ 13,401,800	\$ 150,000	\$ 13,551,800	41402 - Business License Tax - Mill Tax
Motor Vehicle Fees	\$ 330,000	\$ 34,000	\$ 364,000	42121 - Intergov - State - Motor Vehicle License Fee
First Responder Ins. Recovery Program Rev	\$ 1,610,471	\$ (901,864)	\$ 708,607	47005 - Miscellaneous Revenue (Cost Center 18210)
<b>Grand Totals</b>	<b>\$ 88,317,301</b>	<b>\$ 3,614,698</b>	<b>\$ 91,931,999</b>	

**COMMUNITY & ECONOMIC DEVELOPMENT**

- A budget adjustment in the amount of \$77,500 is needed to account for the Homeowner Rehabilitation Loans that are being converted to Grants in the Revolving Loan Fund (1155). This program is designed to eliminate health and safety hazards in residential properties for qualifying low-income households, and each loan has met the affordability covenant. The Homeowner Rehabilitation Program is funded through the Community Block Grant Revolving Loan Fund.

**POLICE DEPARTMENT**

- A budget adjustment in the amount of \$213,341 is needed in the 2021-22 SLESF Project (101355) in the Police Grants Fund (1342) to increase the expense and revenue budget to account for additional State revenues and offsetting expenditures.
- A budget adjustment in the amount of \$42,149 is needed in the 2018-2019 SLESF Project (101139) to reduce State revenues.

**PUBLIC WORKS**

- A budget adjustment in the amount of \$650,000 is needed in the Fleet Management Fund 5400 for the City Services for StanRTA – Bus Maintenance Facility cost center 53243 and Fleet Vehicle and Equipment Maintenance cost center 53255. The increase in the expense budget will account for the additional fuel and parts invoices anticipated through the end of the fiscal year as a result of an increase in buses from 68 to 128 in January 2022, additional units from Ceres and Oakdale fire departments, fuel prices doubling throughout the fiscal year, and increased costs for parts on all City-wide

equipment and vehicles. The increase for the expense budget will be recovered by the Stanislaus County Regional Transit Authority (StanRTA), the fire contracts from Oakdale and Ceres, and through the Fleet Internal Services Fund.

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2022-301**

**RESOLUTION APPROVING THE AWARD OF BID FOR THE PURCHASE OF  
30” GATE VALVES TO WATER TECHNOLOGY RESOURCES,  
BLOOMINGTON, MN, FOR A TOTAL AMOUNT NOT TO EXCEED \$64,564,  
AND AUTHORIZING THE DIRECTOR OF FINANCE OR HER DESIGNEE TO  
EXECUTE THE PURCHASE ORDER**

WHEREAS, the Jennings Treatment Plant need to replace existing gate valves,  
and

WHEREAS, the repairs often take several weeks or months, depending on supply  
of parts availability, severity of the corrosion and equipment needed for the repairs, and

WHEREAS, the City Manager authorized the Purchasing Division to issue a  
Request for Bids (RFB) for 30” Gate Valves, and

WHEREAS, on April 12, 2022, the Purchasing Division issued RFB 2122-45 30”  
Gate Valves, on Planet Bids via the City’s website under three commodity codes.  
Prospective bidders were notified online and via email of the bid opportunity. Twenty-  
one (21) companies chose to download the RFB document, and

WHEREAS, on May 10, 2022, bids were formally opened by the City Clerk and  
broadcast via Microsoft Teams Livestream. Five companies chose to respond. Based on  
providing the lowest responsive and responsible bid, City staff recommends the award of  
bid for the purchase of 30” Gate Valves, to Water Technology Resources, Bloomington,  
MN, and

WHEREAS, Modesto Municipal Code Section 8-3.203 generally requires all  
purchases, which meet or exceed \$50,000 for material, equipment or contractual services  
to be formally bid. The award of bid for the purchase of 30” gate valves, to Water  
Technology Resources, Bloomington, MN, conforms to the Modesto Municipal Code

because the City complied with the formal bid procedures and Water Technology Resources, Bloomington, MN, was the lowest responsive and responsible bidder.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the award of bid for the purchase of 30” gate valves to Water Technology Resources, Bloomington, MN, for a total amount not to exceed \$64,564.

BE IT FURTHER RESOLVED that the Director of Finance, or her designee, is hereby authorized to execute the purchase order.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 12th day of July, 2022, by Councilmember Kenoyer, who moved its adoption, which motion being duly seconded by Councilmember Wright, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Escutia-Braaton, Kenoyer, Madrigal, Ricci, Wright, Mayor Zwahlen

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST:   
DIANE NAYARÉS-PÉREZ, CMC,  
City Clerk

(SEAL)

APPROVED AS TO FORM:

BY:   
JOSE M. SANCHEZ, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2022-302**

**RESOLUTION AUTHORIZING THE CITY MANAGER TO NEGOTIATE AND EXECUTE AN AGREEMENT WITH SALIDA FIRE PROTECTION DISTRICT FOR TEMPORARY FIRE CHIEF SERVICES DURING NEGOTIATIONS OF A FULL FIRE PROTECTION SERVICES AGREEMENT**

WHEREAS, the City of Modesto and the Salida Fire Protection District are currently engaged in negotiations to have the City of Modesto provide full fire protection services to the area served by Salida through a contract for service agreement; and

WHEREAS, the City of Modesto and the Salida Fire Protection District have begun negotiating a full fire protection services agreement; and

WHEREAS, due to a lack of staffing, Salida is in immediate need of a designated Fire Chief during the period of time of the full fire protection services agreement negotiation and approval processes; and

WHEREAS, the Salida Fire Protection District has requested the City of Modesto's assistance for temporary Fire Chief Services during the negotiations of a full fire protection services agreement; and

WHEREAS, the City Manager would be authorized to execute a Memorandum of Understanding to provide administrative Fire Chief services for a temporary time frame in order to bridge the gap of time necessary to finalize negotiations: and

WHEREAS, the term of the agreement shall become effective on the first date of the executed Memorandum of Understanding and shall continue for sixty (60) days or until an agreement is entered into by both parties for the provision of full fire protection services, whichever date is earlier; and

WHEREAS, the City of Modesto will provide the following Fire Chief services to the Salida Fire Protection District:

- Fire services program planning and administration
- Assist with emergency and disaster management
- Fire administration management and leadership.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby authorizes the City Manager to negotiate and execute an agreement with Salida Fire Protection District for temporary Fire Chief services during negotiations of a full Fire Protection Services Agreement., in a form approved by the City Attorney.

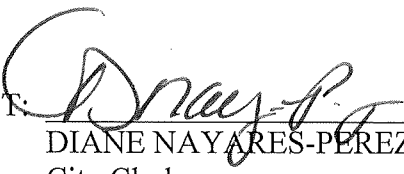
BE IT FURTHER RESOLVED, that the City Manager, or his designee is hereby authorized to execute the agreement, in a form approved by the City Attorney.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 12th day of July, 2022, by Councilmember Kenoyer, who moved its adoption, which motion being duly seconded by Councilmember Wright, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Escutia-Braaton, Kenoyer, Madrigal, Ricci, Wright, Mayor Zwahlen

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST:   
DIANE NAYARES-PEREZ, CMC,  
City Clerk

(SEAL)

APPROVED AS TO FORM:

BY:   
JOSE M. SANCHEZ, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2022-303**

**RESOLUTION AMENDING THE POSITION ALLOCATION FOR FISCAL  
YEAR 2022-23 AS ADOPTED IN THE OPERATING BUDGET**

WHEREAS, a Position Allocation for the City of Modesto was adopted by Modesto City Council on June 7, 2022, as part of the Annual Budget of the City of Modesto for Fiscal Year 2022-23; and

WHEREAS, classification studies are conducted to ensure that a classification system is equitable and consistent within an organization and that positions are correctly classified; and

WHEREAS, per Personnel Administrative Order 2.2-87-12, a classification study may be conducted in response to a reclassification request, to develop/revise a classification specification, or to assist in a reorganization; and

WHEREAS, classification studies were conducted by Human Resources to determine appropriate classifications; and

WHEREAS, position changes will be effective upon City Council adoption, unless otherwise noted.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves amending the Position Allocation and the Fiscal Year 2022-23 Operating Budget for various departments as follows:

1. Allocate one (1) Human Resources Analyst II in the Administration Division (17210) of the Human Resources Department.

2. Reallocate one (1) Financial Analyst II to one (1) Financial Analyst III in the Utilities and Collections Division (12470) of the Finance Department, and reclassify the incumbent accordingly.
3. Eliminate one (1) Police Support Specialist II in the Records and Support Division (19420) of the Modesto Police Department.
4. Reallocate two (2) Police Support Specialist II to two (2) Police Technician in the Records and Support Division (19420) of the Modesto Police Department.
5. Reallocate one (1) Police Support Specialist II to one (1) Police Evidence and Property Technician II in the Records and Support Division (19420) of the Modesto Police Department.
6. Reallocate one (1) Police Support Specialist II to one (1) Administrative Office Assistant III (Confidential) in the Records and Support Division (19420) of the Modesto Police Department.
7. Reallocate one (1) Administrative Office Assistant III to one (1) Administrative Services Technician II in the Water Services Administration Division (45010) of the Utilities Department.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 12th day of July, 2022, by Councilmember Kenoyer, who moved its adoption, which motion being duly seconded by Councilmember Wright, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Escutia-Braaton, Kenoyer, Madrigal, Ricci, Wright, Mayor Zwahlen

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST:   
DIANE NAYARES-PEREZ, CMC,  
City Clerk

(SEAL)

APPROVED AS TO FORM:

BY:   
JOSE M. SANCHEZ, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2022-304**

**RESOLUTION AMENDING THE AGREEMENT WITH JOHNSON CONTROLS, SAN LEANDRO, CA FOR AN UPDATED SECURITY ACCESS SYSTEM MIGRATION, INCREASING THE NOT TO EXCEED AMOUNT BY \$40,000 FOR ADDITIONAL PARTS AND SERVICES THAT MAY BE REQUIRED THROUGH THE LIFE OF THE AGREEMENT FOR A NEW TOTAL AMOUNT NOT TO EXCEED \$255,884, AND AUTHORIZING THE DIRECTOR OF FINANCE, OR DESIGNEE, TO EXECUTE THE AMENDMENT**

WHEREAS, on October 12, 2021, the City Council approved Resolution No. 2021-405 to approve the Purchase Agreement for an updated security access system migration and for three years of preventative maintenance and service with Johnson Controls, San Leandro, CA not to exceed \$215,884; and

WHEREAS, work progressed on the project, it became apparent additional parts and services are needed to complete the project; and

WHEREAS, the Modesto Police Department sought the approval to increase the amount of the Purchasing Agreement by \$40,000 to accommodate additional parts and services; and

WHEREAS, the increase will accommodate any additional parts and services that may be required through the life of the agreement and to properly finish the project.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves an amendment to the purchasing agreement with Johnson Controls, San Leandro, CA, for an updated security access system migration, increasing the not to exceed amount by \$40,000 for additional parts and services that may be required through the life of the agreement for a new total amount not to exceed \$255,884.

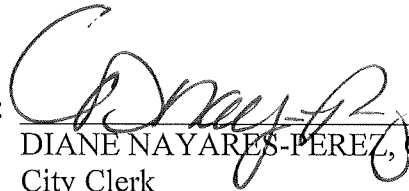
BE IT FURTHER RESOLVED that the Director of Finance, or her designee, is hereby authorized to execute the amendment.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 12th day of July, 2022, by Councilmember Kenoyer, who moved its adoption, which motion being duly seconded by Councilmember Wright, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Escutia-Braaton, Kenoyer, Madrigal, Ricci, Wright, Mayor Zwahlen

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST:   
DIANE NAYARES-PEREZ, CMC,  
City Clerk

(SEAL)

APPROVED AS TO FORM:

BY:   
JOSE M. SANCHEZ, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2022-305**

**RESOLUTION ACCEPTING THE BOARD OF STATE AND COMMUNITY CORRECTIONS CALIFORNIA VIOLENCE INTERVENTION AND PREVENTION (CALVIP) GRANT IN THE AMOUNT OF \$2,215,217 IN GRANT FUNDS WITH A 100% MATCH REQUIREMENT OF \$2,215,217, OF WHICH \$514,592 IS FROM THE CITY OF MODESTO AND \$1,700,625 IS FROM EXTERNAL SUBCONTRACTS, FOR A TOAL AMOUNT OF \$4,430,434; AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE NECESSARY DOCUMENTS INCLUDING MEMORANDUM OF UNDERSTAND AGREEMENTS WITH EACH PARTNER AGENCY ON THIS GRANT**

WHEREAS, in 2019, the California Violence Intervention and Prevention (CalVIP) Grant Program was codified as the Break the Cycle of Violence Act (Chapter 735, Statues of 2019) and established the authority and duties of the Board of State and Community Corrections (BSCC) to administer CalVIP; and

WHEREAS, on February 1, 2022, the City Council approved the submission of a grant application for the CalVIP Grant Program by Resolution No. 2022-070; and

WHEREAS, the Modesto Police Department (MPD) was the lead agency on the grant application and it was submitted on February 9, 2022; and

WHEREAS, the MPD has been notified that it is being awarded \$2,215,217 in grant funds from the BSCC CalVIP Grant Program; and

WHEREAS, there is also a match requirement of \$2,215,217 for a total of \$4,430,434 to be expended on the mission and goals of the grant; and

WHEREAS, the MPD partnered with the Parks, Recreation and Neighborhoods Department as well as Modesto City Schools, the Boys and Girls Club of Stanislaus County, Legacy Alliance Outreach and El Concilio California

for the grant application and have named the grant initiative Project SUCCESS (Serving and Understanding our Community with Compassion and Education for Safer Streets; and

WHEREAS, the three main goals in Project SUCCESS are:

- (1) to strengthen community-police relationships in the target area deemed to be at the highest risk of violence
- (2) to provide opportunities for early intervention, education, family and mental health services in the target area of Southwest Modesto
- (3) provide for a safer community by reducing crime and the fear of crime in the target area, and;

WHEREAS, the breakdown of grant funds and in-kind match funds will be distributed between all partner agencies is outlined below; and

<b>Organization</b>	<b>Grant Funds</b>	<b>Match Funds</b>	<b>Total</b>
Police Department	\$701,983*	\$366,753	\$1,068,736
Parks & Recreation	\$158,155	\$147,839	\$305,994
Modesto City Schools	\$0	\$135,000	\$135,000
Boys & Girls Club	\$451,570	\$560,464	\$1,012,034
Legacy Alliance Outreach	\$514,800	\$587,368	\$1,102,168
El Concilio	\$388,709	\$417,793	\$806,502
<b>Totals</b>	<b>\$2,215,217</b>	<b>\$2,215,217</b>	<b>\$4,430,434</b>

*\*Includes grant mandates such as project evaluation (\$155,000) and financial audit (\$15,000).*

WHEREAS, for the Police Department and the Parks, Recreation and Neighborhoods Department the match funds come by way of existing staff time and use of facilities and these expenses exist in the respective department operating budgets.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby accepts the Board of State and Community Corrections California Violence Intervention and Prevention (CalVIP) Grant in the amount of \$2,215,217 in grant funds with a 100% match requirement of \$2,215,217, of which \$514,592 is from the City of Modesto and \$1,700,625 is from external subcontracts, for a total amount of \$4,430,434; and

BE IT FURTHER RESOLVED that the City Manager, or his designee, is authorized to execute the necessary documents including Memorandum of Understanding agreements with each partner agency on this grant.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 12th day of July, 2022, by Councilmember Kenoyer, who moved its adoption, which motion being duly seconded by Councilmember Wright, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Escutia-Braaton, Kenoyer, Madrigal, Ricci, Wright, Mayor Zwahlen

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST:   
DIANE NAYARES-PEREZ, CMC,  
City Clerk

(SEAL)

APPROVED AS TO FORM:

BY:   
JOSE M. SANCHEZ, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2022-306**

**RESOLUTION AMENDING THE FISCAL YEAR 2022-23 OPERATING AND MULTI-YEAR PROJECT BUDGET TO APPROPRIATE REVENUE AND EXPENSES IN THE AMOUNT OF \$2,215,217 AS WELL AS CITY OF MODESTO IN-KIND EXPENSES IN THE AMOUNT OF \$514,592 RELATED TO THE BOARD OF STATE AND COMMUNITY CORRECTIONS CALIFORNIA VIOLENCE INTERVENTION AND PREVENTION (CALVIP) GRANT; AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO IMPLEMENT THE PROVISIONS OF THIS RESOLUTION**

WHEREAS, the Modesto Police Department has been awarded a grant in the amount of \$2,215,217 from the Board of State and Community Corrections (BSCC) for the California Violence Intervention and Prevention (CalVIP) Grant Program; and

WHEREAS, the grant requires a 100% match in the amount of \$2,215,217 of which \$514,592 will come from City of Modesto and \$1,700,625 will come from external sources; and

WHEREAS, the Modesto Police Department has partnered with the Parks, Recreation and Neighborhoods Department as well as Modesto City Schools, the Boys and Girls Club of Stanislaus County, Legacy Alliance Outreach, and El Concilio of California to implement this grant; and

WHEREAS, certain budgetary adjustments are necessary to account for the programming of revenues and expenses related to the CalVIP Grant and the City of Modesto in-kind match.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the amendment of the Fiscal Year 2022-23 Operating and Multi-Year Budget by \$2,215,217 in revenues and expenses and to

track the City of Modesto in-kind expenses in the amount of \$514,592 for a total of \$2,729,809 for the BSCC CalVIP Grant Program.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 12th day of July, 2022, by Councilmember Kenoyer, who moved its adoption, which motion being duly seconded by Councilmember Wright, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Escutia-Braaton, Kenoyer, Madrigal, Ricci, Wright, Mayor Zwahlen

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST:   
DIANE NAYARES-PEREZ, CMC,  
City Clerk

(SEAL)

APPROVED AS TO FORM:

BY:   
JOSE M. SANCHEZ, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2022-307**

**RESOLUTION APPROVING THE PARKS, RECREATION AND NEIGHBORHOODS REVISED SPENDING PLAN IN ACCORDANCE WITH THE 2021 MODESTO FORWARD STRATEGY FOR THE USE OF AMERICAN RESCUE PLAN ACT (ARPA) FUNDS IN THE AMOUNTS OF \$500,000 FOR THE AWESOME SPOT PLAYGROUND, \$750,000 FOR THE TUOLUMNE RIVER – ECONOMIC DEVELOPMENT STRATEGY, AND \$1,270,028 FOR PARK DEFERRED MAINTENANCE**

WHEREAS, in April 2021, President Biden signed into law the American Rescue Plan Act (ARPA) a \$1.9 trillion emergency relief measure intended to address the economic hardships and negative impacts caused by the COVID-19 pandemic; and

WHEREAS, the bill provides \$45,897,056 available to the City of Modesto to help address the local impact of COVID-19; and

WHEREAS, on May 25, 2021, by Resolution 2021-194, Council approved the Pandemic Recovery Strategy, Modesto Forward, and the associated spending plan for the first allocation of ARPA funding; and

WHEREAS, funding for Park Improvements were allocated in the Modesto Forward plan in two separate key areas of focus: Economic Vitality and Governance and Service Delivery; and

WHEREAS, the Treasury Department has periodically released guidance on the eligibility of funds, and released their Final Rule for the use of ARPA funds in January 2022; and

WHEREAS, based on the Final Rule released by the Treasury Department in January 2022 the Parks, Recreation and Neighborhoods Department has evaluated the previously allocated funding and prepared a revised spending plan; and

WHEREAS, a revised spending plan for ARPA Phase 1 funding in parks detailing which category of ARPA funding each project qualifies for, is **attached** to this resolution, **Attachment A**; and

WHEREAS, in an effort to ensure compliance with the Final Rule the revised ARPA Phase 1 Spending Plan outlines the estimated timeline for completion of each park improvement project and indicates that all funding should be spent well before the expenditure deadline for the funding; and

WHEREAS, The Awesome Spot Playground was originally intended to be funded through an agreement with Valley Mountain Regional Center, the non-profit fiscal agent for The Awesome Spot Playground, but will now be funded through the Capital Improvement Project (CIP) #100984 to allow the City to purchase playground equipment and other materials for the project; and

WHEREAS, the following chart provides a summary of the detailed revised spending plan by the new ARPA funding category; and

<b>ARPA Funding Spending Category</b>	<b>Amount of Funding Allocated</b>
Public Health Response	\$210,000
Address Negative Economic Impacts	\$1,075,000
Investments in Water and Sewer Infrastructure	\$325,000
General ARPA Funding	\$910,028
<b>Total ARPA Funds Allocated to Park Improvements</b>	<b>\$2,520,028</b>

WHEREAS, this item was considered by the Safety and Communities Committee on Monday, June 13, 2022; and

WHEREAS, the Committee recommended forwarding the item to Council for approval with the condition that the vegetation management component will not result in homeless individuals being impacted or removed.

NOW, THEREFORE BE IT RESOLVED, by the Council of the City of Modesto that it hereby approves the Parks, Recreation and Neighborhoods revised spending plan in accordance with the 2021 Modesto Forward strategy for the use of American Rescue Plan Act (ARPA) funds in the amounts of \$500,000 for The Awesome Spot Playground, \$750,000 for the Tuolumne River – Economic Development Strategy, and \$1,270,028 for Park Deferred Maintenance.

NOW, THEREFORE, BE IT FURTHER RESOLVED, by the Council of the City of Modesto that it hereby authorizes the City Manager to carry out the necessary steps to implement the strategy and revised spending plan.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 12th day of July, 2022, by Councilmember Kenoyer, who moved its adoption, which motion being duly seconded by Councilmember Wright, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Escutia-Braaton, Kenoyer, Madrigal, Ricci, Wright, Mayor Zwahlen

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST:   
DIANE NAYARES-PÉREZ, CMC,  
City Clerk

(SEAL)

APPROVED AS TO FORM:

BY:   
JOSE M. SANCHEZ, City Attorney

**Attachment A:**

American Rescue Plan Act (ARPA) Phase 1 Spending Plan for Park Improvements

**REVISED ARPA State and Local Fiscal Recovery Funds (SLFRF) Phase 1 Spending Plan for Park Improvements**

Item #	Park	Improvement Description	Cost	Timeline for Completion	ARPA Funding Category
Address <b>deferred maintenance</b> at various parks and public facilities including ways to reduce water use (\$1,270,028 Total)					
1	Downey Park	Parking Lot Repaving at Downey Park (approximately 32,000 SF parking area)	\$250,000	Fall 2023	<b>General ARPA Funds</b>
2	Modesto Centre Plaza	Replace Pump at MCP Fountain	\$75,000	Fall 2022	<b>General ARPA Funds</b>
3	Various Parks	Turf Reductions of about 8.5 Acres at 7 General Fund Parks (Chrysler-0.7 AC, Creekwood-0.45 AC, Mark Twain-2.25 AC, Moran Estates-0.33 AC, Orchard-2.05 AC, Sharp-0.9 AC, E. La Loma-1.7 AC) (Results in a \$22k annual savings of water)	\$225,000	Fall 2023	<b>5. Infrastructure - Clean Water: Water Conservation (EC 5.8)</b> - Using less potable water for landscape irrigation
4	Garrison Park	Renovate Potable Well for Irrigation Use (Results in a \$12k annual savings of water)	\$50,000	Spring 2023	<b>5. Infrastructure - Clean Water: Water Conservation (EC 5.8)</b> - Using less potable water for landscape irrigation
5	Roosevelt Park	Renovate Potable Well for Irrigation Use (Results in a \$14k annual savings of water)	\$50,000	Spring 2023	<b>5. Infrastructure - Clean Water: Water Conservation (EC 5.8)</b> - Using less potable water for landscape irrigation
6	Dryden & Creekside Golf Course	Touchless Fixtures at On-Course Restrooms (Creekside and Dryden) and Creekside Clubhouse. Automatic Doors at Creekside Clubhouse.	\$50,000	Fall 2022	<b>1. Public Health - Other Public Health Services (EC 1.14)</b> - COVID-19 mitigation improvement to public facility
7	Dryden & Creekside Golf Course	On Course Repairs to Restrooms at Dryden and Creekside Golf Course and Repairs at Creekside Clubhouse. Potential Irrigation Well Improvements at Dryden Golf Course.	\$120,000	Spring 2023	<b>General ARPA Funds</b>
8	Various Buildings	Building Facility Upgrades - Touchless Fixtures at Modesto Centre Plaza, McHenry Mansion, McHenry Museum, Neighborhood Center at Marshall Park, Airport Neighborhood Center, American Legion Hall, Boyscout Clubhouse, King-Kennedy Memorial Center, Maddux Youth Center and Senior Citizens Center. These items are complete and funding is spent.	\$46,095	Completed	<b>1. Public Health - Other Public Health Services (EC 1.14)</b> - COVID-19 mitigation improvement to public facility
9	Maddux Youth Center	Building Facility Upgrades - Automatic Doors for ADA access at Maddux Youth Center.	\$31,500	Spring 2023	<b>1. Public Health - Other Public Health Services (EC 1.14)</b> - COVID-19 mitigation improvement to public facility
10	Modesto Centre Plaza	Building Facility Upgrades - Automatic Doors for ADA access at Modesto Centre Plaza.	\$55,000	Spring 2023	<b>1. Public Health - Other Public Health Services (EC 1.14)</b> - COVID-19 mitigation improvement to public facility
11	Neighborhood Center at Marshall Park	Building Facility Upgrades - Automatic Doors for ADA access at Neighborhood Center at Marshall Park.	\$17,405	Spring 2023	<b>1. Public Health - Other Public Health Services (EC 1.14)</b> - COVID-19 mitigation improvement to public facility
12	Mary Grogan Community Park	Building Facility Upgrades - Touchless Fixtures at Restrooms	\$10,000	Fall 2022	<b>1. Public Health - Other Public Health Services (EC 1.14)</b> - COVID-19 mitigation improvement to public facility
13	Modesto Centre Plaza	Building Facility Upgrades - New Elevator Panels	\$5,000	Summer 2022	<b>General ARPA Funds</b>
14	Various Parks	Park Security Cameras at up to 5 Parks. Install MPD monitored Park Cameras with 4 way cameras and talk back feature.	\$110,000	Spring 2023	<b>General ARPA Funds</b>
15	Various	Tree Evaluation/Pruning/Removal at Various Parks due to Safety Issues	\$75,000	Fall 2022	<b>General ARPA Funds</b>
16	Graceada Park	New fence around the pool including new entry gates to address safety issues due to deteriorating fencing. Approximately 320 LF of fencing.	\$100,028	Summer 2023	<b>General ARPA Funds</b>
<b>Subtotal</b>			<b>\$1,270,028</b>		

<b>Tuolumne River - Economic Development Strategy</b> intended to help improve the vitality of the River (\$750,000 Total)					
17	TRRP	TRRP Master Plan Update / Economic Development Strategy Plan	\$175,000	Summer 2023	<b>General ARPA Funds</b>
18	TRRP - Legion Park Area	Vegetation Management in TRRP Legion Park Area	\$105,000	Fall 2022	<b>2. Negative Economic Impacts - Strong Healthy Communities: Demolition and Rehabilitation of Properties (EC 2.23)</b> - Backlogged Maintenance to a Park in a Qualified Census Tract
19	TRRP - Throughout	10 Park Security Cameras in TRRP	\$120,000	Spring 2023	<b>2. Negative Economic Impacts - Strong Healthy Communities: Neighborhood Features that Promote Health and Safety (EC 2.22)</b> - Capital Expenditure to a Park in a Qualified Census Tract
20	TRRP - Legion Hall	American Legion Hall Parking Lot Replacement (approximately 40,000 SF parking area) and Outdoor Improvements	\$350,000	Fall 2023	<b>2. Negative Economic Impacts - Strong Healthy Communities: Neighborhood Features that Promote Health and Safety (EC 2.22)</b> - Capital Expenditure to a Park in a Qualified Census Tract
<b>Subtotal</b>			<b>\$750,000</b>		
<b>Support for Community Amenities</b> including The Awesome Spot Playground (\$500,000 Total)					
21	Beyer Park	Support for The Awesome Spot Playground	\$500,000	Fall 2023	<b>2. Negative Economic Impacts - Strong Healthy Communities: Neighborhood Features that Promote Health and Safety (EC 2.22)</b> - Capital Expenditure to construct a playground for a portion of the community disproportionately impacted by the pandemic
<b>Subtotal</b>			<b>\$500,000</b>		
<b>ARPA Phase 1 Projects</b>		<b>Total</b>	<b>\$2,520,028</b>		

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2022-308**

**RESOLUTION AMENDING THE FISCAL YEAR 2022/2023 CAPITAL IMPROVEMENT PROGRAM AND NON-CAPITAL PROJECT BUDGETS IN THE AMOUNT OF \$2,520,028 TO FUND THE PROJECTS OUTLINED IN THE ATTACHED ARPA PHASE 1 SPENDING PLAN FOR PARK IMPROVEMENTS AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO TAKE THE NECESSARY STEPS TO IMPLEMENT THE PROVISIONS OF THIS RESOLUTION**

WHEREAS, in April 2021, President Biden signed into law the American Rescue Plan Act (ARPA) a \$1.9 trillion emergency relief measure intended to address the economic hardships and negative impacts caused by the COVID-19 pandemic; and

WHEREAS, the bill provides \$45,897,056 available to the City of Modesto to help address the local impact of COVID-19; and

WHEREAS, on May 25, 2021, by Resolution 2021-194, Council approved the Pandemic Recovery Strategy, Modesto Forward, and the associated spending plan for the first allocation of ARPA funding; and

WHEREAS, funding for Park Improvements were allocated in the Modesto Forward plan in two separate key areas of focus: Economic Vitality and Governance and Service Delivery; and

WHEREAS, the Treasury Department has periodically released guidance on the eligibility of funds, and released their Final Rule for the use of ARPA funds in January 2022; and

WHEREAS, based on the Final Rule released by the Treasury Department in January 2022 the Parks, Recreation and Neighborhoods Department has evaluated the previously allocated funding and prepared a revised spending plan; and

WHEREAS, detailed revised spending plan for ARPA Phase 1 funding in parks is **attached** to this resolution, **Attachment A**; and

WHEREAS, a budget adjustment is needed in the amount of \$2,520,028 to fund all projects within **Attachment A**; and

WHEREAS, the City Council shall consider amending the Capital Improvement Program and Non-Capital project budget to establish the revenue and expenses in the amount of \$2,520,028 to fully fund the projects within **Attachment A**.

NOW, THEREFORE BE IT RESOLVED, by the Council of the City of Modesto that it hereby amends the Fiscal Year 2022/2023 Capital Improvement Program and Non-Capital project budgets in the amount of \$2,520,028 to fund the projects outlined in the **attached** ARPA Phase 1 spending plan for park improvements.

NOW, THEREFORE, BE IT FURTHER RESOLVED, by the Council of the City of Modesto that it hereby authorizes the City Manager to carry out the necessary steps to implement the strategy and revised spending plan.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 12th day of July, 2022, by Councilmember Kenoyer, who moved its adoption, which motion being duly seconded by Councilmember Wright, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Escutia-Braaton, Kenoyer, Madrigal, Ricci, Wright, Mayor Zwahlen

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST:   
DIANE NAYARES-PEREZ, CMC,  
City Clerk

(SEAL)

APPROVED AS TO FORM:

BY:   
JOSE M. SANCHEZ, City Attorney

**Attachment A:**

American Rescue Plan Act (ARPA) Phase 1 Spending Plan for Park Improvements

**REVISED ARPA State and Local Fiscal Recovery Funds (SLFRF) Phase 1 Spending Plan for Park Improvements**

Item #	Park	Improvement Description	Cost	Timeline for Completion	ARPA Funding Category
Address <b>deferred maintenance</b> at various parks and public facilities including ways to reduce water use (\$1,270,028 Total)					
1	Downey Park	Parking Lot Repaving at Downey Park (approximately 32,000 SF parking area)	\$250,000	Fall 2023	<b>General ARPA Funds</b>
2	Modesto Centre Plaza	Replace Pump at MCP Fountain	\$75,000	Fall 2022	<b>General ARPA Funds</b>
3	Various Parks	Turf Reductions of about 8.5 Acres at 7 General Fund Parks (Chrysler-0.7 AC, Creekwood-0.45 AC, Mark Twain-2.25 AC, Moran Estates-0.33 AC, Orchard-2.05 AC, Sharp-0.9 AC, E. La Loma-1.7 AC) (Results in a \$22k annual savings of water)	\$225,000	Fall 2023	<b>5. Infrastructure - Clean Water: Water Conservation (EC 5.8)</b> - Using less potable water for landscape irrigation
4	Garrison Park	Renovate Potable Well for Irrigation Use (Results in a \$12k annual savings of water)	\$50,000	Spring 2023	<b>5. Infrastructure - Clean Water: Water Conservation (EC 5.8)</b> - Using less potable water for landscape irrigation
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6	Dryden & Creekside Golf Course	Touchless Fixtures at On-Course Restrooms (Creekside and Dryden) and Creekside Clubhouse. Automatic Doors at Creekside Clubhouse.	\$50,000	Fall 2022	<b>1. Public Health - Other Public Health Services (EC 1.14)</b> - COVID-19 mitigation improvement to public facility
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8	Various Buildings	Building Facility Upgrades - Touchless Fixtures at Modesto Centre Plaza, McHenry Mansion, McHenry Museum, Neighborhood Center at Marshall Park, Airport Neighborhood Center, American Legion Hall, Boyscout Clubhouse, King-Kennedy Memorial Center, Maddux Youth Center and Senior Citizens Center. These items are complete and funding is spent.	\$46,095	Completed	<b>1. Public Health - Other Public Health Services (EC 1.14)</b> - COVID-19 mitigation improvement to public facility
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14	Various Parks	Park Security Cameras at up to 5 Parks. Install MPD monitored Park Cameras with 4 way cameras and talk back feature.	\$110,000	Spring 2023	<b>General ARPA Funds</b>
15	Various	Tree Evaluation/Pruning/Removal at Various Parks due to Safety Issues	\$75,000	Fall 2022	<b>General ARPA Funds</b>
16	Graceada Park	New fence around the pool including new entry gates to address safety issues due to deteriorating fencing. Approximately 320 LF of fencing.	\$100,028	Summer 2023	<b>General ARPA Funds</b>
<b>Subtotal</b>			<b>\$1,270,028</b>		

<b>Tuolumne River - Economic Development Strategy</b> intended to help improve the vitality of the River (\$750,000 Total)					
17	TRRP	TRRP Master Plan Update / Economic Development Strategy Plan	\$175,000	Summer 2023	<b>General ARPA Funds</b>
18	TRRP - Legion Park Area	Vegetation Management in TRRP Legion Park Area	\$105,000	Fall 2022	<b>2. Negative Economic Impacts - Strong Healthy Communities: Demolition and Rehabilitation of Properties (EC 2.23)</b> - Backlogged Maintenance to a Park in a Qualified Census Tract
19	TRRP - Throughout	10 Park Security Cameras in TRRP	\$120,000	Spring 2023	<b>2. Negative Economic Impacts - Strong Healthy Communities: Neighborhood Features that Promote Health and Safety (EC 2.22)</b> - Capital Expenditure to a Park in a Qualified Census Tract
20	TRRP - Legion Hall	American Legion Hall Parking Lot Replacement (approximately 40,000 SF parking area) and Outdoor Improvements	\$350,000	Fall 2023	<b>2. Negative Economic Impacts - Strong Healthy Communities: Neighborhood Features that Promote Health and Safety (EC 2.22)</b> - Capital Expenditure to a Park in a Qualified Census Tract
<b>Subtotal</b>			<b>\$750,000</b>		
<b>Support for Community Amenities</b> including The Awesome Spot Playground (\$500,000 Total)					
21	Beyer Park	Support for The Awesome Spot Playground	\$500,000	Fall 2023	<b>2. Negative Economic Impacts - Strong Healthy Communities: Neighborhood Features that Promote Health and Safety (EC 2.22)</b> - Capital Expenditure to construct a playground for a portion of the community disproportionately impacted by the pandemic
<b>Subtotal</b>			<b>\$500,000</b>		
<b>ARPA Phase 1 Projects</b>		<b>Total</b>	<b>\$2,520,028</b>		

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2022-309**

**RESOLUTION APPROVING AN AGREEMENT WITH GALLO CENTER FOR THE ARTS FOR A TWO-YEAR TERM RETROACTIVE TO JULY 1, 2022 THROUGH JUNE 30, 2024 FOR DISCOUNTED EMPLOYEE PARKING IN LOT 25 WITH ANNUAL PARKING PERMITS TO BE PAID ON A QUARTERLY BASIS, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE AGREEMENT**

WHEREAS, the Gallo Center for the Arts is located in the downtown core of Modesto. The Gallo Center for the Arts is operated by the non-profit organization Gallo Center. Gallo Center employs stagehands, customer service representatives, management and several others that keep the acquisition of performance shows, set-ups and teardowns for public shows; and

WHEREAS, Gallo Center employees have previously had access to surface parking lot # 25 under a previous agreement with American Specialty Healthcare (ASH); and

WHEREAS, the agreement with ASH terminated on October 6, 2022; and

WHEREAS, Gallo Center and City of Modesto discussed a direct agreement for discounted employee parking in surface Lot # 25; and

WHEREAS, there will be 35 permits issued covering July 1, 2022 through June 30, 2023; and

WHEREAS, there will be at least 35 permits issued covering July 1, 2023 through June 30, 2024, not to exceed 40 parking permits at a rate of \$50, any new additions or substantive changes to amount of parking permits may be authorized by the City Manager or his designee; and

WHEREAS, this discount will provide parking for the non-profit employees. It will also further enhance the partnership between the City and Gallo Center for the Arts; and

WHEREAS, Gallo Center will pay for the parking permits on a quarterly basis.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves a \$50 monthly rate for Gallo Center for the Arts, a 501 (c)(3) Non-Profit Organization to purchase annual parking lot passes for Lot # 25.

BE IT FURTHER RESOLVED that the discount will be limited to a two year agreement from July 1, 2022 through June 30, 2024, and will be specific to the Lot # 25 surface parking lot located on the corner of 9<sup>th</sup> and I streets, and shall not extend to other lots or parking garages; that to obtain the discounted annual pass, the Gallo Center must acquire the permits from City of Modesto Finance Department; that no more than 40 permits will be issued annually unless otherwise authorized by the City Manager; and that parking spaces will not be reserved or guaranteed.

BE IT FURTHER RESOLVED, that the City Manager, or his designee, is hereby authorized to execute the Agreement, in a form approved by the City Attorney.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 12th day of July, 2022, by Councilmember Kenoyer, who moved its adoption, which motion being duly seconded by Councilmember Wright, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Escutia-Braaton, Kenoyer, Madrigal, Ricci, Wright, Mayor Zwahlen

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST:   
DIANE NAYARÉS-PÉREZ, CMC,  
City Clerk

(SEAL)

APPROVED AS TO FORM:

BY:   
JOSE M. SANCHEZ, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2022-310**

**RESOLUTION APPROVING THE FIRST AMENDMENT TO THE AGREEMENT WITH DIXON RESOURCES UNLIMITED (DIXON) AS A CONSULTANT FOR DOWNTOWN PARKING INFRASTRUCTURE IMPLEMENTATION PLAN; TASK 2 AND TASK 3, INCREASE THE AGREEMENT AMOUNT BY \$183,051 INCLUDING A 10% CONTINGENCY, FROM \$26,970 FOR A NEW ESTIMATED TOTAL NOT TO EXCEED AMOUNT OF \$210,021, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE FIRST AMENDMENT**

WHEREAS, the City of Modesto Public Works Department, Parking Services is responsible for maintaining Downtown Parking Infrastructure within the City of Modesto, the focus on improving parking management and enhancing customer service identified the need to obtain consultant services to assist in developing a Parking Implementation Management Plan, and

WHEREAS, on February 1, 2022, the City Manager authorized and executed an Agreement with DIXON to review the aforementioned plans and assessments, to identify potential gaps in parking services and infrastructure, and to make initial recommendations regarding infrastructure opportunities that will benefit the businesses and visitors of the Downtown area, and

WHEREAS, staff recommends proceeding with the creation of a Parking Master Plan and Implementation Strategy through detailed data collection, expanded stakeholder outreach, and identification of specific technology and infrastructure that will not only modernize the City's Downtown parking system, but will create a system that keeps pace with future industry improvements and developing methods to maximize the City's ongoing investment, and

WHEREAS, a first amendment to the current agreement is necessary to cover the increasing of the scope of services to include Task 2 and Task 3.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the First Amendment to the Agreement with DIXON as a Consultant for Downtown Parking Infrastructure Implementation Plan; Task 2 and Task 3, increase the agreement by \$183,051 including a 10% contingency, from \$26,970 for a new estimated total not to exceed amount of \$210,021.

BE IT FURTHER RESOLVED, that the City Manager, or his designee, is hereby authorized to execute the First Amendment to the agreement, in a form approved by the City Attorney.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 12th day of July, 2022, by Councilmember Kenoyer, who moved its adoption, which motion being duly seconded by Councilmember Wright, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Escutia-Braaton, Kenoyer, Madrigal, Ricci, Wright, Mayor Zwahlen

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST:   
DIANE NAYARES-PEREZ, CMC,  
City Clerk

(SEAL)

APPROVED AS TO FORM:

BY:   
JOSE M. SANCHEZ, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2022-311**

**RESOLUTION APPROVING THE EXTENSION OF THE COMPOST FACILITY FLEXIBLE SALES PRICING PILOT PROGRAM APPROVED ON APRIL 2, 2019, AND EXTEND FOR ONE ADDITIONAL YEAR EFFECTIVE AUGUST 1, 2022 THROUGH JULY 31, 2023 WITH THE OPTION TO EXTEND FOR TWO ADDITIONAL YEARS AT THE DISCRETION OF THE CITY MANAGER, OR HIS DESIGNEE**

WHEREAS, the City of Modesto Compost Facility began operation in January 1997 due to the City's waste being comprised of a high level of compostable materials and the City being designated as a City of Trees, and the Compost Facility would provide a way for the City to handle its own green waste and forestry materials; and

WHEREAS, the City also implemented a two-can residential garbage and recycling collection program which provided a green can for all residential waste; and

WHEREAS, over time the green can functionality has expanded to include all yard waste, paper waste and food waste; and

WHEREAS, the Compost Facility's primary and state mandated purpose is to process the City's diverted yard waste, paper waste, and food waste materials into a reusable soil amendment, thus keeping materials from the landfill and lowering our disposal rate; and

WHEREAS, compost is also donated to community gardens and landscape projects, parks, schools, churches, and for use in our own City projects; and

WHEREAS, annually the Facility receives approximately 50,000 tons of raw compostable waste materials and processes it into about 25,000 tons of compost; and

WHEREAS, in Fiscal Year 2017-2018 SCS Engineers, Inc. was hired to conduct a comprehensive review of the City's solid waste system, including the compost facility and

its operations; and

WHEREAS, one of the findings discussed the changes in state law that made organic recycling and composting mandatory, and the demands that would have on the facility operationally and financially, but there was no discussion on what the impacts of the new influx of materials would be, or what would happened to the quality of the compost or the market conditions; and

WHEREAS, AB1826 and SB1383 mandate recycling of organics resulting in a 75% diversion of organics materials out of landfills and into composting facilities, yet there are no laws mandating the public or private sectors purchase the finished product; and

WHEREAS, the new supply of material is estimated to be in excess of 20 million tons annually which creates an overabundance of product inventory statewide and the competition makes pricing and materials quality key factors for moving the product; and

WHEREAS, the new supply of incoming organics material is heavily contaminated with glass, plastics, and trash; and

WHEREAS, an increase in public education and enforcement will help over time, but expensive machinery and labor-intensive efforts are needed long term to separate out the contamination; and

WHEREAS, due to the finished compost product contamination levels, bulk compost sales to orchard farmers and park applications have dissipated and created an oversupply of product at the facility and storing the material can lead to permit violations; and

WHEREAS, this product needs to be moved in order to continue processing

incoming material, and while some of the product can be spread on City land, due to glass contamination it is not feasible to use it in City parks or sports fields; and

WHEREAS, on April 2, 2019, by Resolution No. 2019-140, Council approved a flexible pricing pilot program for one year to help with the oversupply of product and to determine its effectiveness in moving product, and on June 2, 2020, by Resolution 2020-248 Council approved a flexible pricing pilot program for two years to determine the effectiveness of the program regarding the oversupply of product by making it more financially enticing to move product; and

WHEREAS, under the flexible pricing pilot program, the Integrated Waste Program Manager was able to advertise and offer discounted pricing such as seasonal or oversupply specials up to 75% off the product as necessary to make room on the site to try and stay in compliance with state law; and

WHEREAS, since the Flexible Sales Pricing Pilot Program was approved, the Compost Facility recorded approximately 15 bulk-sale customers (purchases over 100 tons) receiving as much as 50% off; and

WHEREAS, the bulk purchases (tons) increased over 100% in years 2019, 2020 and 2021 in comparison to 2018 sales; and

WHEREAS, the ability to move finished product offsite is a critical component of the City's composting operations and permit regulations, and the pilot showed it was evident that having the ability to negotiate pricing and offer competitive rates was a benefit to the facility; and

WHEREAS, staff would like to further extend the pilot program for two more years offering up to 75% specials for seasonal and oversupply demands to try to keep the

Compost Facility in permit compliance and add room for incoming raw material processing.

NOW, THEREFORE, BE IT RESOLVED, by the Council of the City of Modesto that it hereby approves the extension of the Compost Facility Flexible Sales Pricing Pilot Program approved on April 2, 2019, and extend for one additional year effective August 1, 2022 through July 31, 2023 wherein the Integrated Waste Program Manager would be able to advertise and offer discounted pricing such as, seasonal or oversupply specials up to 75% off of the compost product for sale.

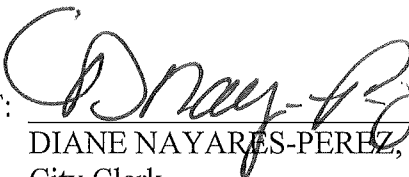
BE IT FURTHER RESOLVED, that staff has the option to extend the program for two additional years at the discretion of the City Manager, or his designee.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 12th day of July, 2022, by Councilmember Kenoyer, who moved its adoption, which motion being duly seconded by Councilmember Wright, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Escutia-Braaton, Kenoyer, Madrigal, Ricci, Wright, Mayor Zwahlen

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST:   
DIANE NAYARES-PEREZ, CMC,  
City Clerk

(SEAL)

APPROVED AS TO FORM:

BY:   
JOSE M. SANCHEZ, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2022-312**

**RESOLUTION AUTHORIZING STAFF TO APPLY FOR ALL CALRECYCLE HOUSEHOLD HAZARDOUS WASTE GRANTS, RESCINDING RESOLUTION NO. 2015-271, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO SIGN GRANT APPLICATIONS AND RELATED FORMS, ACCEPT GRANT AWARDS, AND AMEND THE BUDGET AS AVAILABLE**

WHEREAS, Public Resources Code sections 40000 et seq. authorize the Department of Resources Recycling and Recovery (CalRecycle) to administer various grant programs (grants) in furtherance of the State of California's (state) efforts to reduce, recycle and reuse solid waste generated in the state thereby preserving landfill capacity and protecting public health and safety and the environment; and

WHEREAS, in furtherance of this authority CalRecycle is required to establish procedures governing the application, awarding, and management of the grants; and

WHEREAS, CalRecycle grant application procedures require, among other things, an applicant's governing body to declare by resolution certain authorizations related to the administration of CalRecycle grants.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto authorizes the submittal of application(s) to CalRecycle for all Household Hazardous Waste Grants for which the City of Modesto is eligible.

BE IT FURTHER RESOLVED that the City Manager or his designee, is hereby authorized to sign all grant documents, including but not limited to, applications, agreements, amendments and requests for payment, necessary to secure grant funds and implement the approved grant project, and amend the budget as available.

BE IT FURTHER RESOLVED that these authorizations are effective for five years from the date of adoption of this resolution.

BE IT FURTHER RESOLVED by the Council of the City of Modesto the Resolution No. 2015-271 is hereby rescinded.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 12th day of July, 2022, by Councilmember Kenoyer, who moved its adoption, which motion being duly seconded by Councilmember Wright, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Escutia-Braaton, Kenoyer, Madrigal, Ricci, Wright, Mayor Zwahlen

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST:   
DIANE NAYARES-PEREZ, CMC,  
City Clerk

(SEAL)

APPROVED AS TO FORM:

BY:   
JOSE M. SANCHEZ, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2022-313**

**RESOLUTION APPROVING THE AWARD OF BID FOR THE FURNISHING OF DIGESTER CLEANING SERVICES TO WASTEWATER SOLIDS, YACHATS, OR, FOR AN ESTIMATED ANNUAL AMOUNT OF \$47,690, AND A TOTAL AMOUNT NOT TO EXCEED \$322,663 OVER FIVE YEARS, AND AUTHORIZING THE CITY MANAGER OR HIS DESIGNEE TO EXECUTE THE AGREEMENT**

WHEREAS, the Sutter Treatment Plant utilizes a Digester Gas Treatment System. There are two operational anaerobic digesters that are used to stabilize wastewater solids. Only one digester is in service at a time and are both rotated annually. After a rotation, the digester contents need to be removed and screened prior to discharge into the biological solids drying beds for drying, and

WHEREAS, on June 13, 2017, by Resolution 2017-235, Council authorized the award of bid for the furnishing of Digester Cleaning Services to Wastewater Solids Management Company (Wastewater Solids), Yachats, for an estimated annual cost of \$36,350 and total cost over five years of \$181,750, and

WHEREAS, on January 12, 2022, the Purchasing Division issued RFB 2122-26, Digester Cleaning Services, on Planet Bids via the City's website under six commodity codes. Prospective bidders were notified online and via email of the bid opportunity. Twenty-two companies chose to download the RFB document, and

WHEREAS, on February 22, 2022, bids were formally opened by the City Clerk and broadcast via Microsoft Teams Livestream. Four companies chose to respond. Based on providing the lowest responsive and responsible bid, City staff recommends the award of bid for Digester Cleaning Services to Wastewater Solids Management CO, Yachats, OR, and

WHEREAS, Modesto Municipal Code Section 8-3.203 generally requires all purchases, which meet or exceed \$50,000 for material, equipment or contractual services to be formally bid. An award of bid and agreement for Digester Cleaning Services, to Wastewater Solids Management CO, conforms to the Modesto Municipal Code because the City complied with the formal bid procedures and Wastewater Solids Management CO, Yachats, OR., was the lowest responsive and responsible bid.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the award of bid for the furnishing of Digester Cleaning Services to Wastewater Solids, Yachats, OR, for an estimated annual amount of \$47,690, and a total amount not to exceed \$322,663 over five years.

BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to execute the agreement, in a form approved by the City Attorney.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 12th day of July, 2022, by Councilmember Kenoyer, who moved its adoption, which motion being duly seconded by Councilmember Wright, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Escutia-Braaton, Kenoyer, Madrigal, Ricci, Wright, Mayor Zwahlen

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST:   
DIANE NAYARES-PEREZ, CMC,  
City Clerk

(SEAL)

APPROVED AS TO FORM:

BY:   
JOSE M. SANCHEZ, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2022-314**

**RESOLUTION APPROVING THE AWARD OF BID AND AGREEMENT FOR PUMP EFFICIENCY TESTING SERVICES TO PUMP EFFICIENCY TESTING SERVICES, LLC, SEBASTOPOL, CA FOR A TWO-YEAR AGREEMENT WITH THREE ONE-YEAR EXTENSION OPTIONS, FOR AN ESTIMATED ANNUAL AMOUNT OF \$40,000, AND A TOTAL AMOUNT NOT TO EXCEED \$200,000 OVER FIVE YEARS AND AUTHORIZING THE CITY MANAGER OR HIS DESIGNEE TO EXECUTE THE AGREEMENT**

WHEREAS, the City has a need for pump efficiency testing for its pumps and panels. This testing will measure various aspects of the pump's operations including water flow, rate, pumping lift/inlet pressure, pump discharge pressure, and energy input to the pumping plant, and

WHEREAS, there are approximately 110 pumps in the water system that require testing annually, and the Water Services Division expects to have 120 pump efficiency tests performed each year, and

WHEREAS, this will help the Water Division's Pump Rejuvenation Program by identifying areas of improvement and increased efficiencies, and

WHEREAS, on August 2, 2017 by Resolution No 2017-304, Council approved the award of bid and contract for pump efficiency testing to Pumping Efficiency Testing Services, Sebastopol, CA. The current Agreement No 124366 is set to expire on August 1, 2022, and

WHEREAS, the City Manager authorized the Purchasing Manager to issue a formal Request for Bids (RFB) for the furnishing of pump efficiency testing services, and

WHEREAS, on February 23, 2022, the Purchasing Division issued RFB 2122-47, Pump Efficiency Testing Services, on Planet Bids via the City's website under six commodity codes. Prospective bidders were notified online and via email of the bid

opportunity. Twenty companies chose to download the RFB document, and

WHEREAS, on March 22, 2022, bids were formally opened by the City Clerk and two companies chose to respond. Based on providing the lowest responsive and responsible bid, City staff recommends the award of bid for the furnishing of pump efficiency testing services, to Pumping Efficiency Testing Services, Sebastopol, CA, and

WHEREAS, Modesto Municipal Code Section 8-3.203 generally requires all purchases, which meet or exceed \$50,000 for material, equipment or contractual services to be formally bid. The award of bid for the furnishing of pump efficiency testing services conforms to the Modesto Municipal Code because the City complied with the formal bid procedures and Pumping Efficiency Testing Services, was the lowest responsive and responsible bidder.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the award of bid and agreement for pump efficiency testing services for an estimated annual amount of \$40,000 and a total amount not to exceed \$200,000 over five years.

BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to execute the agreement, in a form approved by the City Attorney.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 12th day of July, 2022, by Councilmember Kenoyer, who moved its adoption, which motion being duly seconded by Councilmember Wright, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Escutia-Braaton, Kenoyer, Madrigal, Ricci, Wright, Mayor Zwahlen

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST:   
DIANE NAYARES-PEREZ, CMC,  
City Clerk

(SEAL)

APPROVED AS TO FORM:

BY:   
JOSE M. SANCHEZ, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2022-315**

**RESOLUTION AUTHORIZING THE SUBMITTAL OF A GRANT APPLICATION AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE AS THE CITY REPRESENTATIVES TO EXECUTE ALL GRANT RELATED DOCUMENTS AND ENTER INTO A FUNDING AGREEMENT WITH THE STATE WATER RESOURCES CONTROL BOARD TO RECEIVE THE GRANT FUNDS, IF AWARDED, UNDER THE PROPOSITION 1 GROUNDWATER GRANT PROGRAM, FOR THE ROUND 3 IMPLEMENTATION GRANT FOR THE MODESTO MUNICIPAL GROUNDWATER SUPPLY CONTAMINATION PREVENTION AND CLEANUP PROJECT**

WHEREAS, the City of Modesto has submitted a concept proposal application and was invited to submit a full proposal, and will be submitting a full proposal grant application to the State Water Resources Control Board for funding for the Modesto Municipal Groundwater Supply Contamination Prevention and Cleanup Project; and

WHEREAS, prior to the State Water Resources Control Board's executing a funding agreement, City of Modesto is required to adopt a resolution authorizing an agent, or representative, to sign the funding agreement, amendments, and requests for disbursement on behalf of the City of Modesto, and to carry out other necessary Project-related activities.

NOW, THEREFORE, BE IT RESOLVED, that the City of Modesto is hereby authorized to carry out the Project, enter into a funding agreement with the State Water Resources Control Board, and accept and expend State funds for the Project.

BE IT FURTHER RESOLVED, that the City Manager, or designee, is hereby authorized and designated to sign, for and on behalf of the City of Modesto, the funding agreement for the Project and any amendments thereto.

BE IT FURTHER RESOLVED, that the City Manager, or designee, is hereby authorized and designated to represent the City of Modesto in carrying out the City of Modesto's responsibilities under the funding agreement, including certifying invoices and disbursements requests for Project costs on behalf of the City of Modesto and compliance with applicable state and federal laws.

BE IT FURTHER RESOLVED, that any and all actions, whether previously or subsequently taken by the City of Modesto, which are consistent with the intent and purposes of the foregoing resolution, shall be, and hereby are, in all respects, ratified, approved and confirmed.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 12th day of July, 2022, by Councilmember Kenoyer, who moved its adoption, which motion being duly seconded by Councilmember Wright, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Escutia-Braaton, Kenoyer, Madrigal, Ricci, Wright, Mayor Zwahlen

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST:   
DIANE NAYARES PEREZ, CMC,  
City Clerk

(SEAL)

APPROVED AS TO FORM:

BY:   
JOSE M. SANCHEZ, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2022-316**

**RESOLUTION APPROVING A FIRST AMENDMENT TO THE CITYWIDE AGREEMENT WITH C.H.W. ENTERPRISES, INC., DBA INDUSTRIAL ELECTRICAL MACHINERY, VISALIA, CA, FOR THE FURNISHING OF ELECTRIC MOTOR REWIND/REBUILD SERVICES, INCREASING THE ANNUAL AMOUNT BY \$243,196 FROM \$124,304 FOR A NEW ESTIMATED ANNUAL AMOUNT OF \$367,500 AND A NEW TOTAL AMOUNT NOT TO EXCEED \$1,705,568 OVER FIVE YEARS AND AUTHORIZING THE DIRECTOR OF FINANCE OR HER DESIGNEE, TO EXECUTE THE AGREEMENT**

WHEREAS, electric motor rewinding and rebuilding services are required for various types and sizes of motors used within City facilities. These motors require immediate repair or rebuild services to ensure that City operations and facilities are maintained. Motors are used in many processes that are required for compliance with federal permits and regulations, such as water and wastewater systems that meet State Water Board requirements. Other regulations are safety related such as ventilation to reduce heat or dangerous atmospheric situations in restricted areas such as pumping stations and wells, and others are convenience or security related to gate or door openers, and

WHEREAS, on October 13, 2020 by Resolution No. 2020-424, Council authorized a Citywide Purchase Agreement for electrical motor rewind-rebuild services to C.H.W. Enterprises, Inc., DBA Industrial Electrical Machinery, Visalia, CA, for two-year agreement with three one-year extension options at the sole discretion of the City, for an estimated annual cost of \$124,304 and a total amount not to exceed \$621,520 over five years, and

WHEREAS, there are currently three divisions; Water, Wastewater, and Parks that utilize the agreement with Industrial Electrical Machinery. During the term of this

agreement it has been determined that the initial requested amounts for the Water and Wastewater Divisions were underestimated. It is difficult for staff to predict how many pieces of mechanical equipment will fail at any given time or to determine if this proposed increase of \$243,196 will cover the costs of future unexpected failures of critical motors and pumps within each year's term of the agreement, and

WHEREAS, an amendment is needed to increase the annual amount of this agreement by \$243,196, from \$124,304, for a new estimated annual amount of \$367,500, with an estimated annual Consumer Price Index (CPI) increase of 10% for years three through five for a new total amount not to exceed \$1,705,568 over five years.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves a First Amendment to the citywide agreement with C.H.W. Enterprises, Inc., DBA Industrial Electrical Machinery, Visalia, CA, for the furnishing of Electric Motor Rewind/Rebuild Services, increasing the annual amount by \$243,196 from \$124,304 for a new estimated annual amount of \$367,500 and a new total amount not to exceed \$1,705,568 over five years.

BE IT FURTHER RESOLVED that the Director of Finance or her designee, is authorized to execute the agreement.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 12th day of July, 2022, by Councilmember Kenoyer, who moved its adoption, which motion being duly seconded by Councilmember Wright, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Escutia-Braaton, Kenoyer, Madrigal, Ricci, Wright, Mayor Zwahlen

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST:   
DIANE NAYARES-PEREZ, CMC,  
City Clerk

(SEAL)

APPROVED AS TO FORM:

BY:   
JOSE M. SANCHEZ, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2022-317**

**RESOLUTION APPROVING A SOLE SOURCE PURCHASE AGREEMENT WITH APG-NEUROS, BLAINVILLE, QUEBEC, CANADA, FOR THE PROCUREMENT OF FLOW METERS AND PARTS FOR AN ESTIMATED ANNUAL AMOUNT OF \$150,000 AND A TOTAL AMOUNT NOT TO EXCEED \$750,000 OVER FIVE YEARS, AND AUTHORIZING THE DIRECTOR OF FINANCE, OR HER DESIGNEE, THE ABILITY TO ADD PARTS BASED ON THE DEPARTMENT'S NEEDS, ENSURING THE TOTAL AMOUNT DOES NOT EXCEED THE AUTHORIZED TOTAL, AND AUTHORIZING THE DIRECTOR OF FINANCE OR HER DESIGNEE, TO EXECUTE THE AGREEMENT**

WHEREAS, the City uses Neuros high-speed turbo blowers in the tertiary water treatment process. The blowers supply air to both the aeration basin and membrane tanks. Aeration is computer-controlled and most of the parts and components used in the Neuros blower system are proprietary and manufactured by APG-Neuros. These parts include variable frequency drives, programmable logic controller, air flow meters. These parts are designed to operate together with the manufacturer-designed software. All replacement parts are solely available from APG-Neuros, and

WHEREAS, on September 12, 2017, by Resolution 2017-356, Council authorized a two-year agreement with three (3) one-year extension options for the sole source procurement of flow meters and parts with APG-Neuros for an average estimated annual cost of \$150,000 and total not to exceed amount over five years of \$750,000, and

WHEREAS, the Wastewater Division maintenance staff is seeking to establish a new two-year agreement with three (3) one-year extension options for the continued procurement of flow meters and parts, and

WHEREAS, Modesto Municipal Code Section 8-3.203 generally requires all purchases, in excess of fifty thousand dollars (\$50,000) to follow formal bid procedures.

However, MMC Section 8-3.204(b) provides that a purchase may be exempted from the City's formal bidding requirement where the Purchasing Agency's requirements can be met solely by a single article or process. The purchase of flow meters and parts from APG-Neuros should be exempt from the formal bidding procedure in accordance with Modesto Municipal Code 8-3.204(b) because APG-Neuros is the original equipment manufacturer and there is no known distributor outlet for the parts or components. Therefore, this purchase qualifies for exemption from the formal bidding procedures.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves a Sole Source Purchase Agreement with APG-Neuros, Blainville, Quebec, Canada, for the Procurement of Flow Meters and Parts for an estimated annual amount of \$150,000 and a total amount not to exceed \$750,000 over five years, and authorizing the Director of Finance, or her designee, the ability to add parts based on the department's needs, ensuring the total amount does not exceed the authorized total.

BE IT FURTHER RESOLVED that the Director of Finance, or her designee, is hereby authorized to execute the agreement.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 12th day of July, 2022, by Councilmember Kenoyer, who moved its adoption, which motion being duly seconded by Councilmember Wright, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Escutia-Braaton, Kenoyer, Madrigal, Ricci, Wright, Mayor Zwahlen

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST:   
DIANE NAYARES-PEREZ, CMC,  
City Clerk

(SEAL)

APPROVED AS TO FORM:

BY:   
JOSE M. SANCHEZ, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2022-318**

**RESOLUTION ACCEPTING THE AMTRAK STATION ROOF AND  
RESTROOM RENOVATION PROJECT AS COMPLETE, AUTHORIZING ALL  
NECESSARY STEPS TO FILE WITH THE COUNTY RECORDER,  
RELEASING SECURITIES, AND RELEASING PAYMENTS TOTALING  
\$448,978 TO COMMERCIAL WATERPROOFING SYSTEMS; DBA ERC  
ROOFING & WATERPROOFING, INC., SANTA ANA, CA**

WHEREAS, the Modesto Amtrak Station located at 1700 Held Drive has been providing rail services for the City of Modesto and outlying areas since 1999 when it was constructed; and

WHEREAS, since then, staff has identified much needed repairs to extend the service life of the facility; and

WHEREAS, in particular, the restrooms and the roof of the building were identified as immediate improvements that will assist with prolonging the service life; and

WHEREAS, on October 4, 2016, by Resolution No. 2016-396, Council approved a prequalified local consultant list for architectural services for various capital improvement services; and

WHEREAS, the list of companies consisted of Architectural Plus, Pires, Lipomi & Navarro (PLN) Architects and HMR Architects, Inc.; and

WHEREAS, in April, 2019, staff requested a proposal from Red Inc., for Architectural Services for the Amtrak Station Roof and Restroom Renovation Project; and

WHEREAS, staff negotiated with Red to complete the project plans and specifications for a fee of \$23,400, plus ten percent (\$2,340) for additional services not

to exceed \$25,740; and

WHEREAS, bids were advertised on September 29, 2020, and were publicly opened on November 17, 2020, pursuant to Modesto Municipal Code Section 8-3.403 and Charter Section 1307, and Commercial Waterproofing Systems; dba ERC Roofing & Waterproofing, Inc., Santa Ana, CA, was the apparent lowest responsible and responsive bidder; and

WHEREAS, on January 12, 2021, by Resolution No. 2021-012 Council awarded a contract to Commercial Waterproofing Systems; dba ERC Roofing & Waterproofing, Inc., Santa Ana, CA, for the construction of the Amtrak Station Roof and Restroom Renovation project in the amount of \$490,017; and

WHEREAS, the contractor received the Notice to Proceed with a first working day of March 22, 2021. All contract work was completed by June 14, 2021; and

WHEREAS, during construction of the project, City of Modesto Transit merged with Stanislaus County to form the Stanislaus Regional Transit Authority; and

WHEREAS, on January 26, 2021, by Resolution 2021-26, Council approved a Joint Powers Agency (JPA) agreement with Stanislaus County to form the Stanislaus Regional Transit Authority; and

WHEREAS, on April 6, 2021, by Resolution 2021-114, Council approved an amendment to the Joint Powers Agency (JPA) agreement with Stanislaus County to form the Stanislaus Regional Transit Authority; and

WHEREAS, as a result of the formation of the Stanislaus Regional Transit Authority, the project accounts were recreated during construction, for financial reporting purposes; and

WHEREAS, the total project costs were \$560,542 which included design, construction, and construction administration costs. The total project amount originally budgeted was \$532,194 which included \$490,017 for the construction contract and contingency with United Pavement Maintenance, Inc.; and

WHEREAS, the City's "Change Order Approval Policy" enacted by Council Resolution No. 94-443 on July 19, 1994, and updated by Resolution No. 2019-326 on July 9, 2019, established a contract change order authority of up to and not to exceed 10% (\$44,547) of the original contract price; and

WHEREAS, there were four change orders on this project with an overall increase of \$3,508; and

WHEREAS, by accepting this project as complete, the City officially accepts the improvements made and authorizes the Notice of Completion to be filed.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that Amtrak Station Roof and Restroom Renovation project is hereby accepted as complete from contractor, Commercial Waterproofing Systems; dba ERC Roofing & Waterproofing, Inc., Santa Ana, CA, and that the City Clerk is authorized to complete all necessary steps to file the appropriate notices and documents with the County Recorder, release securities, and authorize payments totaling \$448,978.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 12th day of July, 2022, by Councilmember Kenoyer, who moved its adoption, which motion being duly seconded by Councilmember Wright, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Escutia-Braaton, Kenoyer, Madrigal, Ricci, Wright, Mayor Zwahlen

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST:   
DIANE NAYARES-PÉREZ, CMC,  
City Clerk

(SEAL)

APPROVED AS TO FORM:

BY:   
JOSE M. SANCHEZ, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2022-319**

**RESOLUTION ACCEPTING THE STREET IMPROVEMENTS SOUTHBOUND MCHENRY AVENUE TO WESTBOUND BRIGGSMORE AVENUE CML-5059 (186) PROJECT AS COMPLETE, AUTHORIZING ALL NECESSARY STEPS TO FILE WITH THE COUNTY RECORDER, RELEASING SECURITIES, AND RELEASING PAYMENTS TOTALING \$1,222,355 TO GEORGE REED, INC., CA**

WHEREAS, in March 2010, the City applied for Congestion Mitigation and Air Quality (CMAQ) funds to install a right-turn lane at southbound McHenry Avenue to westbound Briggsmore Avenue, and

WHEREAS, the proposed work included paving to add a right turn lane, installation of curb, gutter, and sidewalk and modification of the traffic signal at this intersection, and

WHEREAS, on August 3, 2011, by Resolution No.2011-321, Council approved this project as a new Capital Improvement Program (CIP) project and accepted CMAQ funds in the amount of \$125,000 for Preliminary Engineering and \$185,000 for the Land Acquisition and Utility Relocation phases of this project, and

WHEREAS, on August 3, 2011, by Resolution No.2011-321, Council approved this project as a new Capital Improvement Program (CIP) project and accepted CMAQ funds in the amount of \$125,000 for Preliminary Engineering and \$185,000 for the Land Acquisition and Utility Relocation phases of this project, and

WHEREAS, on March 10, 2015, by Resolution No. 2015-76, \$190,300 in Streets CFF fund reserves were transferred to the Land Acquisition phase of this project, and

WHEREAS, on May 12, 2015, by Resolution No. 2015-148, Council accepted

\$25,000 in Regional Surface Transportation Program (RSTP) funds to the Preliminary Engineering phase of this project, and

WHEREAS, on October 11, 2016, by Resolution No. 2016-409, Council accepted \$19,000 in CMAQ funds for the Preliminary Engineering phase, transferred \$4,000 in Streets CFF funds to the Utility Relocation phase, and accepted \$504,630 in CMAQ funds for the construction phase of this project. This resolution also reduced the Right of Way and Utility Relocation phases by \$106,935 in CMAQ funds and added these funds to the Construction phase, and

WHEREAS, on July 10, 2018, by Resolution No. 2018-277, Council accepted additional \$178,962 in CMAQ funds for the Preliminary Engineering (\$24,000), and Construction (\$154,962) phases of this project, and

WHEREAS, on November 12, 2019, by Resolution No. 2019-505, Council accepted \$850,000 in CMAQ funds for the Construction phase of this project, and

WHEREAS, bids were advertised on June 30, 2020. Bids were publicly opened on August 4, 2020, pursuant to Modesto Municipal Code section 8-3.403 and City Charter Section 1307. Three bids were received, and George Reed, Inc., of Modesto, CA, was the apparent lowest bidder, and

WHEREAS, on September 22, 2020, by Resolution No. 2020-393, Council awarded a contract to George Reed, Inc., of Modesto, CA, for the construction of the Street Improvements Southbound McHenry Avenue to Westbound Briggsmore Avenue CML-5059 (186) project in the amount of \$1,168,665, and

WHEREAS, the contractor received the Notice to Proceed with a first working day of November 16, 2020. All contract work was completed by September 9, 2021, and

WHEREAS, the total project costs were \$1,975,758 which included design, construction, and construction administration costs. The total project amount originally budgeted was \$3,021,892 which included \$1,285,532 for the construction contract and contingency with George Reed, Inc., of Modesto, CA., and

WHEREAS, the City's "Change Order Approval Policy" enacted by Council Resolution No. 94-443 on July 19, 1994, and updated by Resolution No. 2019-326 on July 9, 2019, states that a contract of at least \$1,000,000 but less than \$10,000,000 allows Directors Authority not to exceed eight percent (8%) of the contract amount, and

WHEREAS, the approved contingency amount for the project was \$116,687, and

WHEREAS, there were thirteen change orders on this project with an overall increase of \$53,690, and

WHEREAS, by accepting this project as complete, the City officially accepts the improvements made and authorizes the Notice of Completion to be filed.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Street Improvements Southbound McHenry Avenue to Westbound Briggsmore Avenue CML-5059 (186) project is hereby accepted as complete from contractor, George Reed, Inc., of Modesto, CA., and that the City Clerk is authorized to complete all necessary steps to file the appropriate notices and documents with the County Recorder, release securities, and authorize payments totaling \$1,222,355.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 12th day of July, 2022, by Councilmember Kenoyer, who moved its adoption, which motion being duly seconded by Councilmember Wright, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Escutia-Braaton, Kenoyer, Madrigal, Ricci, Wright, Mayor Zwahlen

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST:

  
DIANE NAYARES-PEREZ, CMC,  
City Clerk

(SEAL)

APPROVED AS TO FORM:

BY:

  
JOSE M. SANCHEZ, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2022-320**

**RESOLUTION APPROVING AND CERTIFYING AN UPDATE TO THE CITY  
OF MODESTO SEWER SYSTEM MANAGEMENT PLAN**

WHEREAS, the City of Modesto’s sanitary sewer system is regulated by the State Water Resources Control Board (SWRCB); and

WHEREAS, on May 02, 2006, the SWRCB adopted Order No. 2006-003-DWQ, Statewide General Waste Discharge Requirements (WDR) for Sanitary Sewer Systems; and

WHEREAS, the WDR governs the operations and maintenance of wastewater collection systems and requires agencies to develop, implement, and periodically update a system-specific Sewer System Management Plan (SSMP); and

WHEREAS, the SSMP is a guiding document for the proper management, operation, and maintenance of all parts of the sanitary sewer system; and

WHEREAS, adherence to the SSMP aids staff in achieving the City’s goal of reducing SSOs and ensures continued compliance with all State and Federal regulations; and

WHEREAS, the SSMP must be approved by the “Enrollees” governing board (Modesto City Council) at a public meeting; and

WHEREAS, the WDR requires staff to perform audits on the SSMP a minimum of every two years and complete updates every 5 years, or when there are significant changes made to operations; and

WHEREAS, City staff has conducted internal SSMP audits in November 2013, October 2014, October/November 2016, August 2017, February 2019, and February 23, 2021; and

WHEREAS, the most recent audit report and findings are included in Section 10 of the updated SSMP; and

WHEREAS, these audit findings require the SSMP be updated to incorporate the changes.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves and certifies an update to the City of Modesto's Sewer System Management Plan (SSMP).

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 12th day of July, 2022, by Councilmember Kenoyer, who moved its adoption, which motion being duly seconded by Councilmember Wright, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Escutia-Braaton, Kenoyer, Madrigal, Ricci, Wright, Mayor Zwahlen

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST:   
DIANE NAYARÉS-PÉREZ, CMC,  
City Clerk

(SEAL)

APPROVED AS TO FORM:

BY:   
JOSE M. SANCHEZ, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2022-321**

**RESOLUTION APPROVING AN AMENDMENT TO PLANNED DEVELOPMENT P-D (247) TO ALLOW COMMERCIAL DEVELOPMENT THAT WOULD INCLUDE FOOD TRUCK COMMISSARY, PARKING, AND MANUFACTURING/REPAIR SERVICES ON PROPERTY LOCATED AT 2301 CROWS LANDING ROAD**

WHEREAS, ordinance No. 1892-C.S., which was introduced on November 6, 1979, adopted on November 20, 1979, and which became effective on December 20, 1979, amended Section 8-4-9 of the Zoning Map to prezone to Planned Development Zone, P-D(247), for a development of “M-1 Zone uses which are agriculturally related”, property located on the northwest corner of Whitmore Avenue and Crows Landing Road; and

WHEREAS, City Council Resolution No. 79-1151, adopted on November 6, 1979, approved the development plan for Prezone Planned Development, P-PD (247), and contained conditions of approval thereof; and

WHEREAS, effective April 4, 1980, the area prezoned to Planned Development Zone, P-D (247), was annexed to the City of Modesto, as a part of the Crows Landing-Whitmore annexation; and

WHEREAS, City Council Ordinance No. 2670-C.S., which was introduced on June 6, 1989, finally adopted on June 13, 1989, and which became effective on July 13, 1989, rezoned a portion of P-D (247) to R-1, Low-Density Residential Zone; and

WHEREAS, City Council Resolution No. 89-605, adopted on June 6, 1989, approved a revised development plan for a reduced area of Planned Development Zone, P-D(247), and contained conditions of approval; and

WHEREAS, City Council Ordinance No. 3224-C.S., which was introduced on May 22, 2001, finally adopted on June 5, 2001, and which became effective on July 5, 2001, amended P-D (247) to allow commercial and industrial uses allowed in the M-1 Zone; and

WHEREAS, City Council Resolution No. 2001-234, adopted on May 22, 2001, approved a revised development plan to allow a mini-storage facility; and

WHEREAS, a verified application for an amendment to Planned Development Zone, P-D (247), was filed by Carolina Fernandez on November 30, 2021, to allow commercial development that would include food truck commissary, parking, and manufacturing/repair services, property located at 2301 Crows Landing Road on the west side of Crows Landing Road north of Whitmore Avenue; and

WHEREAS, the unique combination of food truck parking and services and retail uses merit City Council review; and

WHEREAS, after a public hearing held on June 6, 2022, in the Tenth Street Place Chambers located at 1010 10<sup>th</sup> Street, Modesto, California, it was found and determined by the Planning Commission, by its Resolution No. 2022-XX, that amendment of Planned Development Zone, P-D (247), as requested is required by public necessity, convenience, and general welfare for the following reasons:

1. The proposed project is consistent with the Modesto Urban Area General Plan, as the site is designated Commercial, which permits retail commercial centers subject to compliance to City standards.
2. The type of project is described in Chapter II of the Modesto Urban Area General Plan Master EIR (MEIR).

3. All applicable policies, regulations, and mitigation measures identified in the Master EIR have been applied to the project or otherwise made conditions of approval of the project.

WHEREAS, said matter was set for a public hearing of the City Council to be held on July 12, 2022, in the Tenth Street Place Chambers located at 1010 10<sup>th</sup> 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 Carolina Fernandez for an amendment to Planned Development Zone, P-D (247) will not be detrimental to the public health, safety or welfare, will result in an orderly planned use of land, and is in accordance with the community objectives as set forth in the Modesto Urban Area General Plan for the reasons set forth in Planning Commission Resolution No. 2022-XX and quoted above; and

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

1. DEVELOPMENT PLAN. The development plan for Planned Development Zone, P-D(247), is hereby approved subject to the following conditions:
  1. All development shall conform to the plot plan and building elevations titled "Crows Landing Center at 2301 Crows Landing Road" as amended in red, stamped approved by the Planning Commission on June 6, 2022.
  2. Prior to issuance of a site improvement or building permit, any variation from the approved site plan on file with the City must be reviewed and approved by the Director of Community and Economic Development.
  3. All construction documentation shall be coordinated for consistency, including but not limited to, architectural, structural, mechanical, electrical, plumbing, landscape and irrigation, grading, utility and

street improvement plans. All such plans shall be consistent with the approved entitlement plans on file with the Planning Department.

4. Any variation from the proposed uses of “commercial center, commissary, with food truck parking and manufacturing/repair services” at "Crows Landing Center at 2301 Crows Landing Road" shall be subject to approval by the Director of Community and Economic Development.
5. Exterior building elevations showing building wall materials, roof types, exterior colors and appropriate vertical dimensions shall be included in the development construction drawings.
6. Prior to occupancy of any structure, walls shall be treated with a graffiti-proof coating to the satisfaction of the Director of Community and Economic Development or Designee. Construction drawings shall note the type of graffiti treatment used.
7. The design of light fixtures and their structural supports should be architecturally compatible with the main structures on the site. Light fixtures should be architecturally integrated into the design of a structure to the satisfaction of the Director of Community and Economic Development.
8. Prior to issuance of a building permit, trash enclosures shall be designed using building materials, colors and finishes which are consistent or compatible with those used in the major buildings of the development, as approved by the Community and Economic Development Director.
9. Along pedestrian corridors, the use of low mounted bollard light standards, which reinforce pedestrian scale, shall be used. Steps and ramps should be illuminated wherever possible, with built-in light fixtures to the satisfaction of the Director of Community and Economic Development.
10. At the time of development, all existing underground and aboveground utilities, irrigation, and electrical lines shall be protected, relocated, or removed as required by the Utility Companies and City Engineer or designee. Easements for utilities, irrigation, and electrical lines to remain shall be reserved as required.
11. All signs shall comply with the sign requirements of the C-3 Zones. Prior to issuance of a sign permit, individual sign plans for the project shall be submitted to the Planning Division for separate review and approval prior to installation. All signs will be reviewed for conformance with the sign code.

12. Prior to occupancy of any structure, striping of parking stalls, aisles and driveways shall conform to the provisions of MMC Section 10-5.105, Parking Lot Design Standards.
13. All landscaping, fences, and walls shall be maintained and the premises shall be kept free of weeds, trash, and other debris.
14. Applicant shall submit Landscape and Irrigation (L&I) plans for review and approval by the City's Parks Planning and Development (PPD) Division. L&I plans shall meet the current State of California Model Water Efficient Landscape Ordinance (MWELo) requirements, Modesto Municipal Code (MMC) requirements and City of Modesto standards at time of submittal.
15. Applicant shall install parking lot shade trees per MMC requirements; one (1) shade tree for every eight (8) parking spaces, continuous and intermitted stall locations, within seven feet (7') of stalls.
16. Applicant shall install climbing vines on all walls, in a landscape planter, around the all trash or storage enclosures to discourage tagging.
17. Low Impact Development (LID) control and treatment measures shall be planted with vegetation for erosion protection and sediment entrapment to collect/treat storm water run-off before entering the storm drain system. Storm drainage basins shall be appropriately landscaped and irrigated to address the specific type of storm water control measure. Provide total square feet of the landscape area in project information.
18. Applicant shall install bicycle parking racks as part of the project development per MMC and Green Building Standards Code.
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 City Engineer or designee. Improvements shall be constructed in accordance with the approved plans.
20. The existing access easement along the west and north property lines shall be paved as approved by the City Engineer or designee.
21. Prior to issuance of a building permit the developer shall dedicate public utility easements as required by the utility companies and the City Engineer or designee.

22. Irrigation lines shall be removed, relocated, or protected as required by the Turlock Irrigation District and the City Engineer or designee. Easements for irrigation lines to remain shall be dedicated.
23. All outdoor lighting shall be shielded from adjacent residential properties as required by the City Engineer or designee.
24. Trash bins shall be kept in enclosures in accordance with the approved plan and in accordance with plans approved by the Public Works Director or designee. Enclosures shall be constructed of building materials consistent with those used in the major buildings as approved by the Community and Economic Development Department Director or designee.
25. All aspects of this project shall comply with relevant City of Modesto Standards and Fire Codes as required by the Fire Marshall.
26. 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 Public Works Director or designee. Storm drain improvements shall be constructed in accordance with the approved plans. Provide stormwater treatment controls for the first one-half inch of stormwater runoff from impervious areas of addition. Use either biofiltration (grass swales, vegetative strips) or a propriety device. Design and locate trash enclosure to drain to landscape area.
27. The State Water Control Board and the City of Modesto require a Storm Water Pollution Prevention Plans (SWPPP) to be developed prior to any construction activity of one acre or greater. A copy of the Notice of Intent (NOI) and SWPPP shall be submitted for review prior to obtaining grading permit.
28. All department Conditions of Approval for the project shall be included with building plans and shall be continuously maintained on-site during project construction to the satisfaction of the Chief Building Official.
29. All landscaping, fences, and walls shall be maintained and the premises shall be kept free of weeds, trash, and other debris.
30. All existing underground and aboveground utilities, irrigation, and electrical lines shall be protected, relocated, or removed as required by the City Engineer or designee. Easements for utilities, irrigation, and electrical lines to remain shall be reserved as required.
31. At the time of issuance of a building permit, the developer shall pay development impact fees at the established rate. Such fees may

include but are not limited to, sewer and water connection fees, community facility fees, building permit and plan check fees.

32. 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.
33. Project approval shall become null and void five (5) years following the effective date of approval, unless a building permit is issued and construction is commenced, and diligently pursued toward completion.

In addition, the following recommended conditions of approval are mitigation measures from the Modesto Urban Area General Plan Master Environmental Impact Report that should be applied to the project:

34. Reduce particulate emissions from construction, grading, excavation, and demolition to the maximum extent feasible in accordance with the requirements of SJVAPCD Regulation VIII. Regulation VIII was adopted to reduce the amount of particulate matter suspended in the atmosphere as a result of emissions generated from anthropogenic (man-made) fugitive dust sources. (Policy VII.H.2.jj)
35. Require all access roads, driveways, and parking areas serving new commercial and industrial development to be constructed with materials that minimize particulate emissions in accordance with the requirements of SJVAPCD Regulation VIII and are appropriate to the scale and intensity of use. (Policy VII.H.2.kk)
36. Effectively stabilize dust emissions using water, chemical stabilizer / suppressant, cover with a tarp or other suitable cover or vegetative ground cover, all disturbed areas, including storage piles, which are not being actively utilized for construction purposes. (Policy VII.H.2.mm)
37. Effectively stabilize dust emissions using water or chemical stabilizer / suppressant, all onsite unpaved roads and off-site unpaved access roads. (Policy VII.H.2.nn)
38. Effectively control fugitive dust emissions utilizing application of water or by presoaking all land clearing, grubbing, scraping,

excavation, land leveling, grading, cut & fill, and demolition activities. (Policy VII.H.2.oo)

39. When materials are transported off site, cover all materials, or effectively wet them to limit visible dust emissions, and maintain at least six inches of freeboard from top of container. (Policy VII.H.2.qq)
40. Limit operations 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.) (Policy VII.H.2.rr)
41. Following the addition of materials to, or the removal of materials from, the surface of outdoor storage piles, effectively stabilize said piles for fugitive dust emissions utilizing sufficient water or chemical stabilizer / suppressant. (Policy VII.H.2.ss)
42. Within urban areas, immediately remove trackout when it extends 50 or more feet from the site and at the end of each workday. (Policy VII.H.2.tt)
43. Prevent carryout and trackout for any site with 150 or more vehicle trips per day. (Policy VII.H.2.uu)
44. Limit traffic speeds on unpaved roads to 15 mph. (Policy VII.H.2.vv)
45. Install sandbags or other erosion control measures to prevent silt runoff to public roadways from sites with a slope greater than one percent (1%). (Policy VII.H.2.ww)
46. Install wheel washers for all exiting trucks, or wash all trucks and equipment leaving the site. (Policy VII.H.2.xx)
47. Install wind breaks at windward side(s) of construction areas. (Policy VII.H.2.yy)
48. Suspend excavation and grading activity when winds exceed 20 mph (regardless of windspeed, an owner/operator must comply with Regulation VIII's 20 percent opacity limit). (Policy VII.H.2.zz)
49. Limit the area subject to excavation, grading, and other construction activity at any one time. (Policy VII.H.2.aaa)

50. Implement noise-reducing construction practices as conditions of approval where substantial construction-related noise impacts would be likely to occur, such as with extended periods of pile driving, or where construction is expected to continue or where sensitive receptors would be affected by construction noise. Conditions of approval may include, but are not limited to:
  - a. Require construction equipment, including air compressors and pneumatic equipment to have properly maintained mufflers;
  - b. Require impact tools to be equipped with shrouds or shields;
  - c. Require that the quietest equipment available be used; and,
  - d. Require selection of haul routes that affect the fewest number of people. (Policy VII-G.3.b)
  
51. For proposed development consistent with the adopted Urban Area General Plan on lands within the Baseline Developed Area and Downtown, exclusive of lands within the Dry Creek and Tuolumne River Comprehensive Planning Districts, an assessment of whether any potential habitat for special-status species is present within proposed development areas shall be made. No further biological study is warranted unless habitat is present or if specific information concerning the known or potential presence of significant biological resources is identified in future updates of the California Natural Diversity Database, or through formal or informal input received from resource agencies or other qualified sources (Policy VII-E.2[a]).
  
52. Construction activities shall comply with the requirements of the City's Stormwater Management Plan under its municipal NPDES stormwater permit, and the State Water Resources Control Board's General Permit for Discharges of Storm Water Associated with Construction Activity. (Policy VI.G.3)
  
53. Ensure that new development complies with the City of Modesto's *Stormwater Management Program: Guidance Manual for New Development Stormwater Quality Control Measures*. (Policy VI.G.5)
  
54. Require new development to implement an appropriate selection of permanent pollution control measures in accordance with the City's implementation policies for the municipal NPDES stormwater permit. (Policy VI.G.6)
  
55. Integrate Low Impact Development principles into proposed development projects' design. Low Impact Development is a storm water management and land development strategy that promotes conservation and use of natural on-site features combined with engineered small-scale hydrologic devices. In designing development projects, minimize the amount of impervious surface in order to maximize on-site infiltration of stormwater runoff and minimize the

potential for storm water runoff from the site. (Policy VI.G.8)

56. In the event that site inspection or construction activities uncover chemical contamination, underground storage tanks, abandoned drums, or other hazardous materials or wastes at a parcel, the inspection report preparer shall so notify the City. The City shall notify the County Health Services Department. Under the direction of these agencies, a site remediation plan would be prepared by the project applicant.
57. The plan would (1) specify measures to be taken to protect workers and the public from exposure to potential site hazards and (2) certify that the proposed remediation measures would clean up the wastes, dispose the wastes, and protect public health in accordance with federal, state, and local requirements. Permitting or work in the areas of potential hazard shall not proceed until the site remediation plan is on file with the City.
58. If a parcel is found to be contaminated to a level that prohibits the proposed use, the potential for reduction of the hazard should be evaluated. Site remediation is theoretically capable of removing hazards to levels sufficiently low to allow any use at the site. In practice, both the technical feasibility of the remediation and its cost (financial feasibility) should be evaluated in order to determine the overall feasibility of locating a specific use on a specific site. In some cases, it may require restriction to industrial use or a use that involves complete paving and covering of the parcel.
59. In accordance with OSHA requirements, any activity performed at a contaminated site shall be preceded by preparation of a separate site health and safety plan (prepared by the project applicant and filed with the City) for the protection of workers and the public. All reports, plans, and other documentation shall be added to the administrative record. (Policy VI.M.3)
60. Applicants for building permits should determine that a site containing or formerly containing residences or farm buildings / structures has been fully investigated for the presence of hazardous materials or wastes prior to issuance of the permit. Investigation should consist of, at minimum, a Phase I environmental site assessment and a Phase II site assessment, if found necessary as a result of the Phase I assessment. The findings of the site assessment should be reported to the City and the County's Department of Environmental Resources. The appropriate remediation should occur prior to final occupancy of the approved development. (Policy VI.M.6)

61. The City's Noise Ordinance (Modesto Municipal Code Section 4-9.101) prohibits the "loud and raucous discharge into the open air of the steam of any steam equipment or exhaust from any stationary internal-combustion engine." The Noise Ordinance prohibits the loud and raucous operation or use of any of the following before 7:00 a.m. or after 9:00 p.m. daily (except Saturday and Sunday and State or Federal holidays, when the prohibited time shall be before 9:00 a.m. and after 9:00 p.m.):
- a. A hammer, or any other device or implement used to pound or strike an object.
  - b. An impact wrench, or other tool or equipment powered by compressed air.
  - c. A hand-powered saw.
  - d. Any tool or piece of equipment powered by an internal-combustion engine such as, but not limited to, chain saw, backpack blower, and lawn mower.
  - e. Any electrically powered (whether by alternating current electricity or by direct current electricity) tool or piece of equipment used for cutting, drilling, or shaping wood, plastic, metal, or other materials or objects, such as, but not limited to, a saw, drill, lathe, or router.
  - f. Any of the following: heavy equipment (such as but not limited to bulldozer, steam shovel, road grader, backhoe), ground drilling and boring equipment (such as but not limited to derrick or dredge), hydraulic crane and boom equipment, portable power generator or pump, pavement equipment (such as but not limited to pneumatic hammer, pavement breaker, tamper, compacting equipment), pile-driving equipment, vibrating roller, sand blaster, gunite machine, trencher, concrete truck, and hot kettle pump.
  - g. Any construction, demolition, excavation, erection, alteration, or repair activity. In the case of urgent necessity and in the interest of public health and safety, the Chief Building Official may issue a permit for exemption from these. Such period shall not exceed three (3) working days in length while the emergency continues but may be renewed for successive periods of three (3) days or less while the emergency continues. The Chief Building Official may limit such permit as to time of use and/or permitted action, depending upon the nature of the emergency and the type of action requested.
  - h. Construction equipment and vehicles should be equipped with properly operating mufflers according to the manufacturers'

recommendations. Air compressors and pneumatic equipment should be equipped with mufflers, and impact tools should be equipped with shrouds or shields.

62. If archaeological resources are discovered at any time during construction, all activity shall cease until the site is surveyed by a qualified archaeologist. The survey shall include mitigation measures, which shall be implemented before construction resumes. The survey shall follow the criteria as presented in Appendix K.

63. The developer shall implement pre- and post-construction best management practices (BMPs) to minimize pollutants entering the storm system.

2. DEVELOPMENT SCHEDULE. The following development schedule is hereby approved for said Planned Development Zone, P-D (247):

The entire construction program be accomplished in one phase, construction to begin on or before July 12, 2027, and completion to be not later than July 12, 2029.

3. CHANGES IN DEVELOPMENT PLAN. Any changes in the above approved development plan shall be made in accordance with the provisions of Section 10-7.108 of the Modesto Municipal Code.

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 1 of Chapter 7 of Title 10 of the Modesto Municipal Code relating to Planned Development Zones and other applicable City laws, rules, regulations and procedures.

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 (247), becomes effective.

BE IT FURTHER RESOLVED that the conditions of project approval set forth herein include certain fees, dedication requirements, reservations requirements, and other exactions, and that pursuant to Government Code Section 66020(d)(1), these conditions constitute written notice of a statement of the amount of such fees, and a description of the dedications, reservations, and other exactions.

BE IT FURTHER RESOLVED that the applicant is hereby further notified that the ninety (90) days approval period in which a protest of these fees, dedications, reservations, and other exactions, pursuant to Government Code Section 66020(a) can be filed, begins on July 12, 2022, and that if a protest is not filed within this ninety (90)-day period complying with all of the requirements of Section 66020, the applicant will be legally barred from later challenging such exactions.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 12th day of July, 2022, by Councilmember Madrigal, who moved its adoption, which motion being duly seconded by Councilmember Escutia-Braaton, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Escutia-Braaton, Kenoyer, Madrigal, Ricci, Wright, Mayor Zwahlen

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST:   
DIANE NAYARES-PEREZ, CMC,  
City Clerk

(SEAL)

APPROVED AS TO FORM:

BY:   
JOSE M. SANCHEZ, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2022-322**

**RESOLUTION FINDING THAT THE FOLLOWING SUBSEQUENT PROJECT IS WITHIN THE SCOPE OF THE PROJECT COVERED BY THE MODESTO URBAN AREA GENERAL PLAN MASTER ENVIRONMENTAL IMPACT REPORT (SCH NO. 2014042081): AN AMENDMENT TO PLANNED DEVELOPMENT P-D (247) TO ALLOW COMMERCIAL DEVELOPMENT THAT WOULD INCLUDE FOOD TRUCK COMMISSARY, PARKING, AND MANUFACTURING/REPAIR SERVICES ON PROPERTY LOCATED AT 2301 CROWS LANDING ROAD**

WHEREAS, on March 5, 2019, by Resolution 2019-108, City Council of the City of Modesto certified the Final Master Environmental Impact Report (“Master EIR”) (SCH No. 2014042081) for the Modesto Urban Area General Plan; and

WHEREAS, Carolina Fernandez has proposed an amendment to Planned Development P-D (247) to allow for commercial development that would include food truck commissary, parking, and manufacturing/repair services on property located at 2301 Crows Landing Road; and

WHEREAS, pursuant to Section 21157.1 of the Public Resources Code, the City of Modesto’s Community & Economic Development Department prepared an Environmental Assessment Initial Study EA/C&ED No. 2022-17 (“Initial Study”) which analyzed whether the subsequent project may cause any significant effect on the environment that was not examined in the Master EIR and whether the subsequent project was described in the Master EIR as being within the scope of the report; and

WHEREAS, in accordance with CEQA guidelines beginning on June 22, 2022, the City caused to be published a 20-day notice of the City’s intent to make a finding that the subsequent 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 July 12, 2022, 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 planned development amendment, a copy of which is **attached** hereto as **Exhibit “A”**, and incorporated herein by reference, and based on substantial evidence in the Initial Study makes the following findings:

1. An Initial Study was prepared by the City of Modesto that analyzed whether the subsequent project may cause any significant effect on the environment that was not examined in the Master EIR and whether the subsequent project was described in the Master EIR as being within the scope of the report.
2. The subsequent project will have no additional significant effect on the environment, as defined in subdivision (d) of Section 21158 of the Public Resources Code, that was not identified in the Master EIR.
3. No new or additional mitigation measures or alternatives are required.
4. The subsequent project is within the scope of the project covered by the Master EIR.
5. All applicable policies, regulations, and mitigation measures identified in the Master EIR have been applied to the subsequent project or otherwise made conditions of approval of the subsequent 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 12th day of July, 2022, by Councilmember Wright, who moved its adoption, which motion being duly seconded by Councilmember Madrigal, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Escutia-Braaton, Kenoyer, Madrigal, Ricci, Wright, Mayor Zwahlen

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST:   
DIANE NAYARES-PEREZ CMC,  
City Clerk

(SEAL)

APPROVED AS TO FORM:

BY:   
JOSE M. SANCHEZ, City Attorney

**EXHIBIT A**

Initial Study

EA/C&ED 2022-17

# **City of Modesto**

## **Finding of Conformance with the Urban Area General Plan Master EIR (SCH No. 2014042081)**

### **Initial Study Environmental Checklist C&ED No. 2022-17**

**For the proposed:**

**Amendment to allowable uses of Planned Development Zone  
P-D (247), to allow for commercial development and  
commissary with food truck parking and manufacturing/repair  
services on property located at 2301 Crows Landing Road.**

**Prepared by:  
City of Modesto  
Community & Economic Development Department  
Planning Division**

**January 19, 2022**

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# **City of Modesto**

## **Master EIR Initial Study Environmental Checklist**

### **I. PURPOSE**

CEQA allows for the limited environmental review of subsequent projects under the City's Master Environmental Impact Report ("Master EIR"). This Initial Study Environmental Checklist ("Initial Study") is used in determining whether the proposed P-D Amendment ("Project") is "within the scope" of the project analyzed in the Modesto Urban Area General Plan Master EIR (SCH# 2014042081) (Public Resources Code section 21157.1). When the Initial Study supports this conclusion, the City will issue a Finding of Conformance.

A subsequent project is "within the scope" of the Master EIR when:

1. it will have no additional significant effects on the environment that were not addressed as significant effects in the Master EIR; and,
2. no new or additional mitigation measures or alternatives are required.

"Additional significant effects" means a project-specific effect that was not addressed as a significant effect in the Master EIR. [Public Resources Code Section 21158(d)]

The determination must be based on substantial evidence in the record. "Substantial evidence" means facts, reasonable assumptions predicated upon facts, or expert opinion based on facts. It does not include speculation or unsubstantiated opinion. (CEQA Guidelines Section 15384)

### **II. PROJECT DESCRIPTION**

- A. Title: PDA-21-004: Amendment to Planned Development Zone P-D(247), Commercial Uses and Commissary with Food Truck parking and manufacturing/repair services.
- B. Address or Location: 2301 Crows Landing Road., Modesto CA 95351
- C. Applicant: Carolina Fernandez, 2328 Peppermint Drive, Modesto CA 95355
- D. City Contact Person: Katharine Martin, Senior Planner

Project Manager: Katharine Martin  
Department: Community and Economic Development, Planning Division  
Phone Number: 209-577-5267  
E-mail address: kamartin@modestogov.com

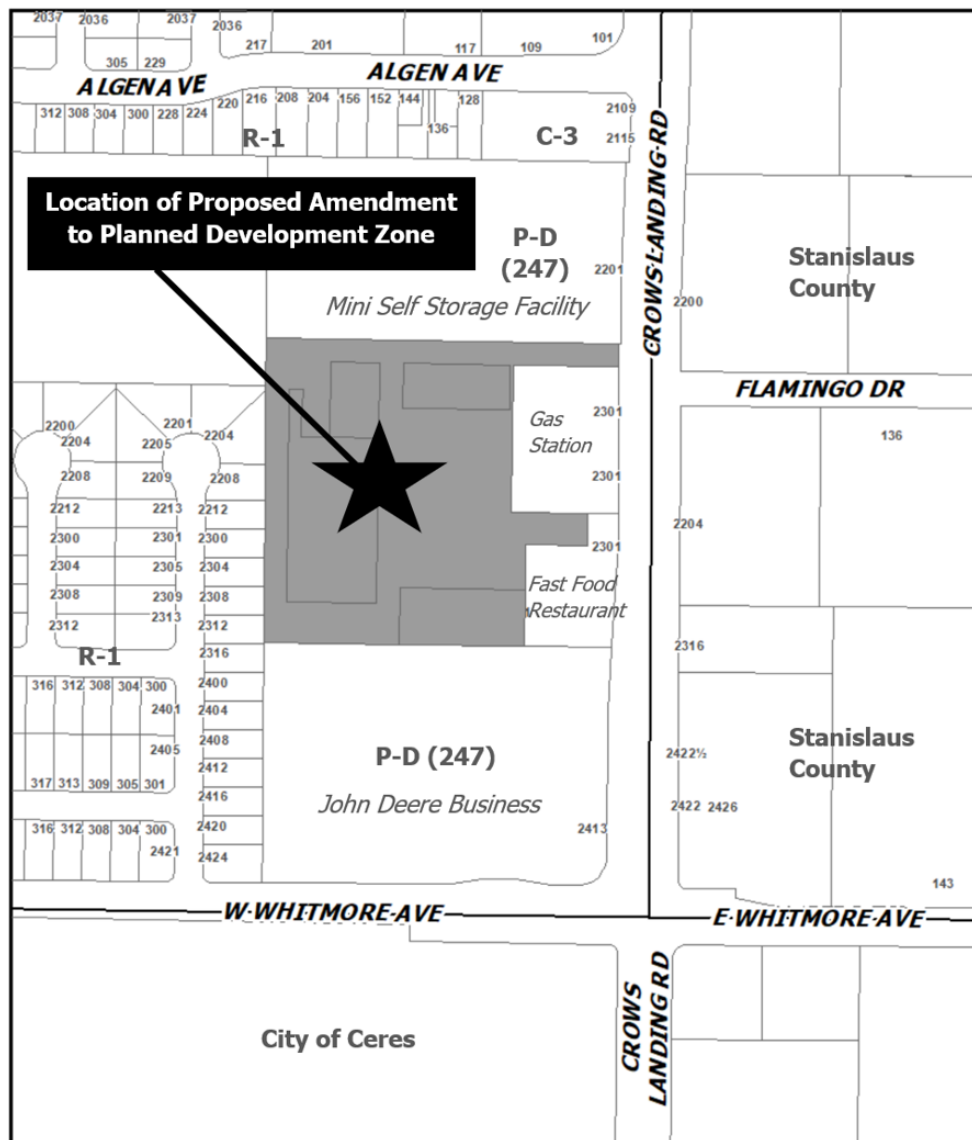
- E. Current General Plan Designation(s): Commercial (C)
- F. Current Zoning Classification(s): Planned Development Zone P-D(247)
- G. Surrounding Land Uses:  
North: Planned Development Zone P-D(247), Mini Storage Facility  
South: City of Ceres Incorporated Area, Vacant Land

East: County of Stanislaus unincorporated area, industrial uses on the east side of Crows Landing Road.

West: Low Density Residential (R-1) Zone, single-family residential uses

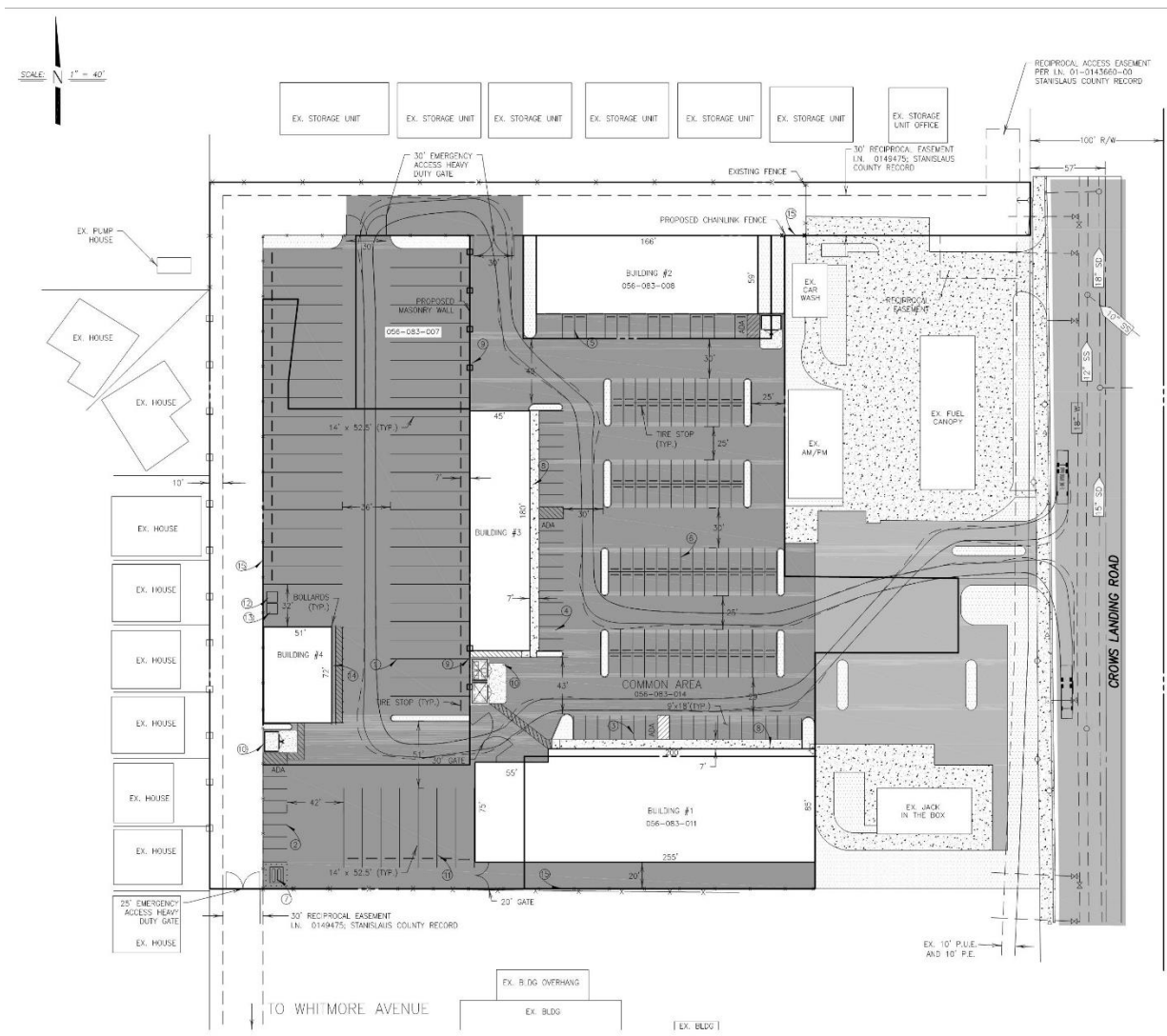
- H. Project Description, including the project type listed in Section II.C (Anticipated Future Projects) of the Master EIR (Attach additional maps/support materials as needed for complete record):

Amendment of a portion of Planned Development Zone P-D (247) to allow for commercial uses including a commissary with food truck parking and manufacturing/repair services. Amendment area is 5.68 acres and is currently vacant. Existing commercial uses within the P-D Zone including drive thru restaurant and gas station to remain as-is. Food Truck services would utilize existing drive entrances on Crows Landing Road for access to the storage facility.



**Area of Proposed Amendment to  
Planned Development Zone P-D (247)  
PDA-21-004 at 2301 Crows Landing Road**





**NOTE:**  
 1. UTILITIES SHOWN ARE APPROXIMATE, AND BASED ON A FIELD SURVEY OF ABOVE GROUND UTILITIES.

**SITE PLAN  
 PDA-21-004**

I. Other Public Agencies Whose Approval is Required: None.

**III. FINDINGS / DETERMINATION (SELECT ONE ON THE BASIS OF THE ANALYSIS IN SECTION IV)**

1. X **Within the Scope** – The project is within the scope of the Master EIR and no new environmental document or Public Resources Code Section 21081 findings are required. All of the following statements are found to be true:

- A. The subsequent project will have no additional significant effect on the environment, as defined in subdivision (d) of Section 21158 of the Public Resources Code, that was not identified in the Master EIR;
- B. No new or additional mitigation measures or alternatives are required;
- C. The subsequent project is within the scope of the project covered by the Master EIR; and,
- D. All applicable policies, regulations, and/or mitigation measures identified in the Master EIR have been applied to the subsequent project or otherwise made conditions of approval of the subsequent project.

2. \_\_\_\_\_ **Mitigated Negative Declaration Required** – On the basis of the above determinations, the project is not within the scope of the Master EIR. A mitigated negative declaration will be prepared for the project. The following statements are all found to be true:

- A. The subsequent project is within the scope of the project covered by the Master EIR;
- B. All applicable policies, regulations, and mitigation measures identified in the Master EIR have been applied to the subsequent project or otherwise made conditions of approval of the subsequent project; and,
- C. The project will have one or more potential new significant effects on the environment that were not addressed as significant effects in the Master EIR. New or additional mitigation measures are being required of the project that will reduce the effects to a less than significant level.

3. \_\_\_\_\_ **Focused EIR Required** – On the basis of the above determinations, the project is not within the scope of the Master EIR. A Focused EIR will be prepared for the project. All of the following statements are found to be true:

- A. The subsequent project is within the scope of the project covered by the Master EIR;
- B. All applicable policies, regulations, and mitigation measures identified in the Master EIR have been applied to the subsequent project or otherwise made conditions of approval of the subsequent project; and,
- C. The project will have one or more new significant effects on the environment that were not addressed as significant effects in the Master EIR. New or additional mitigation measures or alternatives are required as a result.

Sean Manalo  
Project Manager

Associate Planner  
Title

January 22, 2022  
Date

#### 4. Within the Scope Analysis of this Document:

The Master EIR allows projects to be found within the scope of the MASTER EIR if certain criteria are met. If the following statements are found to be true for all 20 impact categories included in this Initial Study, then the proposed project is addressed by the Master EIR analysis and is within the scope of the Master EIR. Any "No" response must be discussed.

	YES	NO
(1) The lead agency for subsequent projects shall be the City of Modesto or a responsible agency identified in the Master EIR.	<input checked="" type="checkbox"/>	<input type="checkbox"/>
(2) City policies that reduce, avoid, or mitigate environmental effects will continue to be in effect and, therefore, would be applied to subsequent projects where appropriate. The policies are described in the list of policies in place as "mitigating policies" attached to the Initial Study template. Project impacts would be mitigated to a less-than-significant level using the Master EIR's mitigating policies only.	<input checked="" type="checkbox"/>	<input type="checkbox"/>
(3) Federal, State, regional, and Stanislaus County regulations do not change in a manner that is less restrictive on development than current law (i.e., would not offer the same level of protection assumed under the Master EIR).	<input checked="" type="checkbox"/>	<input type="checkbox"/>
(4) No specific information concerning the known or potential presence of significant resources is identified in future reports, or through formal or informal input received from responsible or trustee agencies or other qualified sources.	<input checked="" type="checkbox"/>	<input type="checkbox"/>
(5) The project will occur within the boundaries of the City's planning area as established in the Urban Area General Plan.	<input checked="" type="checkbox"/>	<input type="checkbox"/>
(6) Implementation of the project will comply with all appropriate mitigating policies contained and enumerated in the 2019 Urban Area General Plan Master EIR.	<input checked="" type="checkbox"/>	<input type="checkbox"/>

#### 5. Currency of the Master EIR Document

The Master EIR should be reviewed on a regular basis to determine its currency, and whether additional analysis / mitigation should be incorporated into the Master EIR via a Supplemental or Subsequent EIR (CEQA Section 21157.6). Staff has reviewed Sections 1 through 20 of this document in light of the criteria listed below to determine whether the Master EIR is current. The analyses contained within the Master EIR are current as long as the following circumstances have not changed. Any "no" response must be explained.

	YES	NO
(1) Certification of the Urban Area General Plan Master EIR occurred less than five (5) years prior to the filing of the application for this subsequent project.	<input checked="" type="checkbox"/>	<input type="checkbox"/>
(2) The proposed project is described in the Master EIR and its approval will not affect the adequacy of the Master EIR for any subsequent project because the City can make the following findings:	<input checked="" type="checkbox"/>	<input type="checkbox"/>
(a) No substantial changes have occurred with respect to the circumstances under which the Master EIR was certified;	<input checked="" type="checkbox"/>	<input type="checkbox"/>
(b) No new information, which was not known and could not have been known at the time the Master EIR was certified as complete, has become available; and,	<input checked="" type="checkbox"/>	<input type="checkbox"/>

(c)	Policies that require site-specific mitigation, and avoidance or other mitigation of impacts as a prerequisite to future development, remain in full force and effect.	<input checked="" type="checkbox"/>	<input type="checkbox"/>
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Discussion:

- (1) The General Plan Master EIR was last certified on March 5, 2019. The analysis contained in the Master EIR is adequate for subsequent projects, as documented in the discussion below.
- (2) The project is consistent with the analysis contained in the Master EIR. This is documented in the discussion of the 20 individual evaluation topics within this initial study.
  - (2)(a) There have been no substantive changes to the Urban Area General Plan since the Master EIR was certified that would create additional significant environmental effects that were not analyzed by the Master EIR.
  - (2)(b) There has been no new information that would affect the adequacy of the analysis contained in the Master EIR.
  - (2)(c) All policies contained in the Master EIR that require site-specific mitigation or avoidance of impacts remain in effect and will be applied to the project as appropriate.

**IV. ENVIRONMENTAL ANALYSIS**

This Initial Study, in accordance with Section 21157.1(b) of the Public Resources Code, discloses whether the proposed project may cause any project-specific significant effect(s) to the environment that was not examined in the Final Master EIR for the Urban Area General Plan, and whether new or additional mitigation measures or alternatives may be required as a result. The Initial Study thereby documents whether or not the project is “within the scope” of the Master EIR.

Pursuant to Public Resources Code Section 21157.1, no new environmental document or findings are necessary for projects that are determined to be within the scope of the Master EIR. Adoption of the findings specified in Section III.1, above, after completion of the Initial Study fulfills the City’s obligation in that situation. All environmental effects cited reflect 2040 conditions resulting from the Urban Area General Plan, as identified in the Master EIR.

The environmental impact analysis in the Master EIR for the Urban Area General Plan is organized in twenty subject / topical areas. The following analysis is based on the impact analyses contained in Chapter V of the Master EIR. For ease of reference, the sections are numbered in the same order as the analyses in Chapter V.

## **1. TRAFFIC AND CIRCULATION**

### **a. Significant Effects Identified in the Master EIR**

The Master EIR discloses the following residual significant and unavoidable traffic and circulation impacts expected after application of mitigating policies.

#### **Direct Impacts**

Effect: Increased automobile traffic will result in roadway segments (see Master EIR Table V-1-6, pages V-1-36 to V-1-39) operating at LOS D, Modesto's significance threshold for automobile traffic, or lower (LOS E or F).

Effect: The substantial increase in traffic relative to the existing load and capacity of the street system will cause, either individually or cumulatively, the violation of automobile service standards established by StanCOG's Congestion Management Plan for designated roads and highways.

Effect: A substantial increase in automobile vehicle miles traveled (see Master EIR Tables V-1-7 through V-1-10, pages V-1-44 through V-1-45).

#### **Cumulative Impacts**

Effect: Potential for growth inducement or acceleration of development resulting from highway and local road projects.

Effect: Substantial increase in traffic in relation to the existing traffic load and capacity of the street system, including a violation, either individually or cumulatively, of an automobile LOS standard established by the Congestion Management Plan for designated roads and highways.

Effect: Increased demand for capacity-enhancing alterations to existing roads or automobile traffic reduction.

Other impact categories affected by Traffic and Circulation are addressed throughout this Initial Study (see also: Section 2, Air Quality and Greenhouse Gas Emissions; Section 3, Generation of Noise; Section 18, Energy; Section 19, Visual Resources; and, Section 20, Land Use and Planning).

### **b. Urban Area General Plan Mitigating Policies Applied to the Project**

Traffic and Circulation-related mitigating policies pertinent to this project are found on Master EIR pages V-1-7 through V-1-30. All mitigating policies appropriate to the project, including any new measures, will be incorporated into or made conditions of approval of this project and are listed in Section V, "Mitigating Policies Applied to Project."

#### Discussion:

The appropriate mitigating policies to be applied to this project include none from the Master EIR. No new or additional mitigation measures or alternatives are required to reduce project impacts to a less-than-significant level.

### **c. Project-Specific Effects**

Section V-1.B of the Master EIR provides analysis of Traffic and Circulation impacts of development of the General Plan. The following is an analysis of whether the proposed project would result in any new, significant, project-specific effect(s) that were not disclosed in the Master EIR.

Significance Criteria: A subsequent development project will have a new significant effect on the environment if it would exceed the following thresholds / criteria:

	Potentially Significant Impact	Less Than Significant w/Mitigating Policies	Less Than Significant Impact	No Impact
<b>1. TRAFFIC AND CIRCULATION</b>				
1) The proposed project would conflict with an applicable plan, ordinance or policy (including those within the Urban Area General Plan) establishing measures of effectiveness for the performance of the circulation system, taking into account all modes of transportation including mass transit and non-motorized travel and relevant components of the circulation system including, but not limited to intersections, streets, highways and freeways, pedestrian and bicycle paths, and mass transit.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
2) The proposed project would conflict with an applicable congestion management program, including, but not limited to, level of service standards and travel demand measures, or other standards established by the county congestion management agency, for designated facilities.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
3) The proposed project would 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"/>
4) The proposed project would substantially increase hazards due to a design feature (e.g. sharp curves or dangerous intersections) or incompatible uses (e.g. farm equipment), or result in inadequate emergency access.	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
5) The proposed project would conflict with adopted policies, plans, or programs regarding public transit, bicycle, or pedestrian facilities, or otherwise decrease the performance or safety of such facilities.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
6) The proposed project would result in projected Level of Service "D" or worse for non-exempt City of Modesto roadways, Caltrans facilities, and/or County of Stanislaus roadways.	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

Discussion:

- (1) The project site is within the Baseline Urbanized Area of the General Plan and would amend the existing zoning for commercial development as is currently permitted within the General Commercial (C-2) Zone to also allow for a commissary with food truck parking and with accessory manufacturing/repair services at the western end of the site. Access to the facility would be via existing driveway entrances on Crows Landing Road, a 124-ft wide Minor Arterial street. The project was referred to Land Development Engineering, Traffic Engineering Design, who indicated no concerns with the proposal.
- (2) The project would not exceed a level of service standard established by the county congestion management agency (StanCOG).
- (3) The proposed project would not result in a change in air traffic patterns. The project site is not located within a safety zone as established by the Airport Land Use Commission. The nearest airport is the City-County Airport approximately three miles away to the northeast.
- (4) The proposed project would not substantially increase hazards due to a design feature. The project was referred to the City Fire Department and Traffic Engineering Design, who indicated no concerns.
- (5) The project would not conflict with an adopted transit or non-motorized transportation plan.
- (6) The project would not cause a significant change to the current level of service to the adjacent roadways or the Crows Landing Road/Whitmore Avenue intersection to the south. The project involves a combination of commercial and food truck parking and manufacturing/repair services, with volumes of traffic not expected to be at the same level as for a retail development.

## **2. AIR QUALITY AND GREENHOUSE GAS EMISSIONS**

### **a. Significant Effects Identified in the Master EIR**

The Master EIR discloses the following residual significant and unavoidable air quality impacts expected after application of mitigating policies.

#### **Direct Impacts**

Effect: Expected automobile traffic will result in increased operational emissions of reactive organic gases (ROG) and oxides of nitrogen (NO<sub>x</sub>), and increased carbon monoxide (CO) levels in the project area (see Master EIR Tables V-2-4 through V-2-6, pages V-2-40 through V-2-41).

Effect: Expected construction and development activities could result in increased emissions of particulate matter 10 microns or less (PM<sub>10</sub>) and 2.5 microns or less in diameter (PM<sub>2.5</sub>) (see Master EIR page V-2-31, "2. Significant Direct Impacts").

#### **Cumulative Impacts**

The Master EIR indicates the same impacts identified as direct impacts above will contribute to regional impacts on air quality for the criteria pollutants ROG, NO<sub>x</sub>, PM<sub>10</sub>, and PM<sub>2.5</sub>.

### **b. Urban Area General Plan Mitigating Policies Applied to the Project**

Air quality-related mitigating policies that are relevant to the proposed project are found on pages V-2-8 through V-2-29 of the Master EIR. All mitigating policies appropriate to the project will be incorporated into or made conditions of approval of this project and are listed in Section V, "Mitigating Policies Applied to Project."

Discussion:

The appropriate policies to be applied to this project include AQ-100, AQ-101, AQ-103 through AQ-105, and AQ-107 through AQ-117 from the Master EIR. No new or additional mitigation measures or alternatives are required to reduce project impacts to a less-than-significant level.

**c. Project-Specific Effects**

Section V-2.B of the Master EIR is the analysis of air quality impacts resulting from development of the Urban Area General Plan. The following is an analysis of whether the proposed project would result in a new, significant, project -specific effect not analyzed in the Master EIR.

Significance Criteria: Determination of project effects will be based on the following thresholds. The project-specific effects will be less than significant unless:

	Potentially Significant Impact	Less Than Significant w/Mitigating Policies	Less Than Significant Impact	No Impact
<b>2. AIR QUALITY AND GREENHOUSE GAS EMISSIONS</b>				
1) The proposed project would be inconsistent with the air quality and greenhouse gas emissions policies in the Urban Area General Plan.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
2) The proposed project would conflict with or obstruct implementation of the applicable air quality plan.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
3) The proposed project would violate any air quality standard or contribute substantially to existing or projected violation.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
4) The proposed project would result in a cumulatively considerable net increase of any criteria pollutant for which the project region is in non-attainment under 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"/>
5) The proposed project would expose sensitive receptors to substantial pollutant concentrations.	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
6) The proposed project would create objectionable odors affecting a substantial number of people.	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
7) The proposed project would generate	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

	Potentially Significant Impact	Less Than Significant w/Mitigating Policies	Less Than Significant Impact	No Impact
greenhouse gas emissions, either directly or indirectly, that may have a significant impact on the environment.				
8) The proposed project would conflict with an applicable plan, policy, or regulation adopted for the purpose of reducing the emission of greenhouse gases.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

Discussion:

- (1) The project involves amendment of a Planned Development Zone to allow for the development of a commercial center with food truck parking and manufacturing/repair services on 5.68 acres. The proposed project would not be inconsistent with the air quality and greenhouse gas emissions policies in the Urban Area General Plan.
- (2) The proposed project would not conflict with or obstruct implementation of the applicable air quality plan.
- (3) The proposed project is commercial in nature and would not violate any air quality standard or contribute substantially to existing or projected violation.
- (4) The proposed project would not result in a cumulatively considerable net increase of any criteria pollutant for which the project region is in non-attainment under an applicable federal or state ambient air quality standard.
- (5) The proposed project would not expose sensitive receptors to substantial pollutant concentrations.
- (6) The project would not create objectionable odors affecting a substantial number of people. The project involves a food truck manufacturing/repair location in a parking lot environment. Some odors may be generated during the construction process of the project but would be temporary and less than significant with application of the mitigation measures cited above.
- (7) The proposed project would not generate a substantial amount of greenhouse gas emissions, either directly or indirectly, that may have a significant impact on the environment. Emissions would be primarily from food trucks, at volumes expected to be less than typical traffic in and out of a retail center’s parking lot, and would be temporary and less than significant.
- (8) The project would not exceed emissions thresholds established by the SJVUAPCD, and is consistent with the development standards for a commercial use as established by the General Plan.

**3. GENERATION OF NOISE AND VIBRATION**

**a. Significant Effects Identified in the Master EIR**

The Master EIR discloses the following residual significant and unavoidable noise and vibration impacts expected after application of mitigating policies.

**Direct Impacts**

Effect: Future automobile traffic noise levels and roadway construction and maintenance activities resulting from development consistent with the Urban Area General Plan will exceed the City’s noise thresholds at various locations, but particularly in areas adjacent to heavily traveled roadways (see Master EIR Table V-3-9, pages V-3-28 through V-3-31).

Effect: New noise-generating land uses could produce noise levels that would exceed the City’s noise thresholds of acceptability at sensitive receptors in the vicinity.

Effect: Construction noise would cause a temporary or periodic increase in noise exposure above ambient noise levels.

Effect: Demolition and construction activities may expose people to excessive vibration levels.

**Cumulative Impacts**

Effect: Traffic from development in the City of Modesto would, when combined with traffic from new development in the County and other cities, contribute to a cumulative increase in roadside noise levels on major roads and highways throughout Stanislaus County.

**b. Urban Area General Plan Mitigating Policies Applied to the Project**

Noise policies that are pertinent to the project being analyzed in this Initial Study are found on pages V-3-18 through V-3-24 of the Master EIR. All mitigating policies appropriate to the project will be incorporated into or made conditions of approval of this project and are listed in Section V, “Mitigating Policies Applied to Project.”

Discussion:

The appropriate policies to be applied to this project include Noise-4 from the Master EIR. No new or additional mitigation measures or alternatives are required to reduce project impacts to a less-than-significant level.

**c. Project-Specific Effects**

Section V-3.B of the Master EIR discloses noise impacts resulting from development of the Urban Area General Plan. The following is an analysis of whether the proposed project would result in a new, significant, project -specific effect not analyzed in the Master EIR.

Significance Criteria: Determination of the proposed project’s effects are based on the following thresholds. Project-specific effects will be less than significant unless:

	Potentially Significant Impact	Less Than Significant w/Mitigating Policies	Less Than Significant Impact	No Impact
<b>3. NOISE AND VIBRATION</b>				

	Potentially Significant Impact	Less Than Significant w/Mitigating Policies	Less Than Significant Impact	No Impact
1) The proposed project is inconsistent with Urban Area General Plan noise and vibration policies and standards.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
2) The proposed project would generate excessive ground-borne noise and/or vibration levels.	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
3) The proposed project would result in a permanent increase of 3 dBA where any other noise threshold or standard would be exceeded, and/or 5 dBA where noise levels would otherwise fall within acceptable limits, 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"/>
4) The proposed project would result in a substantial temporary or periodic increase in ambient noise levels existing without the project.	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
5) For a project located within an airport land use plan, or where such a plan has not been adopted, within two (2) miles of a public airport or public use airport, the proposed project would result in exposure of 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"/>
6) For a project within the vicinity of a private airstrip, the proposed project would 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"/>
7) For new residential development within 200 feet of active rail lines, the proposed project would result in noise levels generated during train passbys that exceed 50 dBA L <sub>max</sub> inside bedrooms or 55 dBA L <sub>max</sub> inside other occupied areas.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

Discussion:

- (1) The project would not be inconsistent with Urban Area General Plan noise and vibration policies and standards.
- (2-4) The project would not result in a permanent increase in ambient noise. The project involves food truck manufacturing/repair services and associated commercial uses but the manufacturing building is approximately 200-feet from the residential properties to the west. The commissary and food truck parking area is approximately 40-feet from the residential properties to the west. While access to the food truck parking area will be 24 hours, the hours of the commissary kitchen are to be 7:00am – 5:00pm with the peak hours expected to be 7:00am to 10:00am. Noise is not likely to be an issue from generators as not all food trucks will have generators and since there will be ample access to power outlets, trucks with generators are unlikely to be used on site. The proposed uses will be required to adhere to noise regulations as defined in Title 4

Chapter 9 of the MMC. Overall, primary sources of noise would be construction related, temporary and less than significant.

- (5-6) The site is not located within an airport land use plan, nor is in the vicinity of a private airstrip.
- (7) The site is not located near an active railroad line.

#### **4. EFFECTS ON AGRICULTURAL LANDS**

##### **a. Significant Effects Identified in the Master EIR**

The Master EIR discloses the following residual significant and unavoidable impacts on agricultural lands expected after application of mitigating policies.

##### **Direct Impacts**

Effect: Development consistent with the Urban Area General Plan may convert up to approximately 10,500 acres of farmland in various categories in the Planned Urbanizing Area to urban uses.

Effect: Approximately 1,100 acres of urban development along a 350-foot wide 26-mile boundary between urban and agricultural uses could be affected by continued agricultural operations, including noise, dust, and chemical overspray or drift.

##### **Cumulative Impacts**

Effect: Growth within Modesto's planning area would contribute considerably to the loss of agricultural land within Stanislaus County, accounting for the conversion of as much as approximately 10,500 acres of farmland in various categories in the Planned Urbanizing Area to 2040.

##### **b. Urban Area General Plan Mitigating Policies Pertinent to the Project**

Agricultural land-related mitigating policies pertinent to the proposed project are found on pages V-4-4 to and V-4-8 of the Master EIR. All mitigating policies appropriate to the project will be incorporated into or made conditions of approval of this project and are listed in Section V, "Mitigating Policies Applied to Project."

##### Discussion:

The appropriate policies to be applied to this project include none from the Master EIR. No new or additional mitigation measures or alternatives are required to reduce project impacts to a less-than-significant level.

##### **c. Project-Specific Effects**

Section V-4.B of the Master EIR discloses the impacts resulting from the implementation of the Urban Area General Plan on agricultural lands. The following is an analysis of whether the proposed project would result in a new, significant, project-specific effect(s) not previously analyzed in the Master EIR.

**Significance Criteria:** Determination of project effects will be based on the following thresholds. The project-specific effects will be less than significant unless:

	Potentially Significant Impact	Less Than Significant w/Mitigating Policies	Less Than Significant Impact	No Impact
<b>4. EFFECTS ON AGRICULTURAL RESOURCES</b>				
1) The proposed project would be inconsistent with the Urban Area General Plan policies relating to agricultural resources.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
2) The proposed project would convert areas of Prime Farmland, Unique Farmland or Farmland of Statewide Importance to non-agricultural uses, impair the agricultural productivity of prime agricultural land, or result in substantial pesticide overspray, dust, or noise at urban uses.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
3) The proposed project would conflict with existing zoning for agricultural use, or with a Williamson Act contract.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
4) The proposed project would conflict with existing zoning for, or cause rezoning of, forest land or timberland.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
5) The proposed project would result in the loss of forest land or conversion of forest land to non-forest use.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
6) The proposed project would involve other changes to the environment that could result in conversion of farmland or forest land.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

**Discussion:**

- (1) The project area is located within the Baseline Urbanized Area of the City’s General Plan and is currently zoned for commercial uses. The project would not be inconsistent with the Buran Area General Plan policies relating to agricultural resources.
- (2) The project would not convert areas of Prime Farmland, Unique Farmland or Farmland of Statewide Importance. The site is within an urbanized area designated as Urban and Built-Up Land by the CA Department of Conservation.
- (3) The project would not conflict with existing zoning for an agricultural use. The site is zoned for commercial uses and is not under a Williamson Act contract.
- (4-6) The site is not located within or near any forest land or timber land, nor would contribute to the conversion of forest land or farmland.

**5. INCREASED DEMAND FOR LONG-TERM WATER SUPPLIES**

**a. Significant Effects Identified in the Master EIR**

The Master EIR discloses the following residual significant and unavoidable impacts on long-term water supplies expected after application of mitigating policies.

**Direct Impacts**

Effect: Implementation of the Urban Area General Plan could substantially deplete groundwater supply or interfere with recharge.

Effect: Implementation of the Urban Area General Plan could necessitate construction of new water treatment facilities, or expansion of existing facilities, the construction of which could cause significant environmental effects.

Effect: Implementation of the Urban Area General Plan could necessitate expansion of existing water supply entitlements.

**Cumulative Impacts**

Effect: Groundwater withdrawals from both subbasins by the City, when combined with other users' withdrawals, may result in overdrafting.

Effect: Cumulative impacts resulting from construction of new water treatment facilities, or expansion of existing facilities, could cause significant environmental effects.

**b. Urban Area General Plan Mitigating Policies Applied to the Project**

Water supply-related mitigating policies pertinent to the proposed project are found on pages V-5-11 through V-5-16 of the Master EIR. All mitigating policies appropriate to the project will be incorporated into or made conditions of approval of this project and are listed in Section V, "Mitigating Policies Applied to Project."

Discussion:

The appropriate policies to be applied to this project include: none from the Master EIR. No new or additional mitigation measures or alternatives are required to reduce project impacts to a less-than-significant level.

**c. Project-Specific Effects**

Section V-5.B of the Master EIR discloses impacts on long-term water supplies resulting from implementation of the Urban Area General Plan. The following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not disclosed in the Master EIR.

Significance Criteria: Determination of project effects will be based on the following thresholds. The project-specific effects will be less than significant unless:

	Potentially Significant Impact	Less Than Significant w/Mitigating Policies	Less Than Significant Impact	No Impact
<b>5. EFFECTS RELATIVE TO INCREASED</b>				

	Potentially Significant Impact	Less Than Significant w/Mitigating Policies	Less Than Significant Impact	No Impact
<b>DEMAND FOR LONG TERM WATER SUPPLIES</b>				
1) The proposed project is inconsistent with the Urban Area General Plan policies relating to water supply.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
2) The proposed project would substantially deplete groundwater supply, interfere with groundwater recharge, result in water demand exceeds the capacity for recharge or that would contribute to overdraft of the groundwater basins.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
3) The proposed project would require or result in the construction of new water 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"/>
4) The proposed project would exceed existing water supply entitlements or require expansion of entitlements.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

Discussion:

- (1) The project would not be inconsistent with the Urban Area General Plan policies relating to water supply.
- (2) The project involves development of a commissary with food truck parking and manufacturing/repair services, with storm water handling to be therefore the use would not substantially deplete groundwater supply or substantially interfere with groundwater recharge.
- (3) The project would not require construction of new water treatment facilities.
- (4) The project would not exceed existing water supply entitlements or require expansion of entitlements. Water service to the site is provided by the City of Modesto.

**6. INCREASED DEMAND FOR SANITARY SEWER SERVICES**

**a. Significant Effects Identified in the Master EIR**

The Master EIR discloses the following residual significant and unavoidable impacts on sanitary sewer services after application of mitigating policies.

**Direct Impacts**

Effect: Development resulting from implementation of the Urban Area General Plan may result in exceedance of wastewater treatment requirements of the Central Valley RWQCB.

Effect: Development resulting from implementation of the Urban Area General Plan may require or result in construction of new wastewater facilities, or the expansion of existing facilities, that could cause significant effects.

Effect: Development resulting from implementation of the Urban Area General Plan may result in a finding that the wastewater treatment facilities do not have adequate capacity to serve the projected demand in addition to the provider’s existing commitments.

**Cumulative Impacts**

Effect: Development resulting from implementation of the Urban Area General Plan may result in cumulative effects similar to those described under “direct Impacts,” above.

**b. Urban Area General Plan Mitigating Policies Applied to the Project**

Sewer service-related mitigating policies that are relevant to the proposed project are found on pages V-6-3 through V-6-7 of the Master EIR. All mitigating policies appropriate to the project will be incorporated into or made conditions of approval of this project and are listed in Section V, “Mitigating Policies Applied to Project.”

Discussion:

The appropriate mitigating policies to be applied to this project include none from the Master EIR. No new or additional mitigation measures or alternatives are required to reduce project impacts to a less-than-significant level.

**c. Project-Specific Effects**

Section V-6.B of the Master EIR discloses impacts on the Increased Demand for Sanitary Sewer Service resulting from implementation of the Urban Area General Plan. The following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not disclosed in the Master EIR.

Significance Criteria: Determination of project effects will be based on the following thresholds. The project-specific effects will be less than significant unless:

	Potentially Significant Impact	Less Than Significant w/Mitigating Policies	Less Than Significant Impact	No Impact
<b>6. INCREASED DEMAND FOR SANITARY SEWER SERVICES</b>				
1) The proposed project is inconsistent with wastewater policies in the Urban Area General Plan, or would exceed wastewater treatment requirements of the Central Valley RWQCB.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
2) The proposed project would require or result in the construction of new wastewater facilities or the expansion of existing facilities, beyond those identified improvements needed to serve the proposed project, which would cause significant	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

	Potentially Significant Impact	Less Than Significant w/Mitigating Policies	Less Than Significant Impact	No Impact
effects.				
3) The proposed project would result in a finding that the wastewater treatment facilities do not have adequate capacity to serve the proposed 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"/>

Discussion:

- (1) The project involves the development of a commissary with food truck manufacturing/repair services in addition to commercial uses. The project would not exceed wastewater treatment requirements of the Central Valley RWQCB.
- (2) The project would not require the construction of new wastewater facilities or the expansion of existing facilities. The site is served by existing sewer lines.
- (3) The project would not result in a finding that the wastewater treatment facilities do not have adequate capacity to serve the site. The site is served by existing sewer lines.

**7. LOSS OF SENSITIVE WILDLIFE AND PLANT HABITAT**

**a. Significant Effects Identified in the Master EIR**

The Master EIR discloses the following residual significant and unavoidable impacts on sensitive wildlife and plant habitat expected after application of mitigating policies.

**Direct Impacts**

Effect: No residual significant impacts on sensitive wildlife and plant habitat are expected to occur with the application of the policies contained in the Urban Area General Plan.

**Cumulative Impacts**

Effect: Implementation of the Urban Area General Plan will contribute to the cumulative impact of habitat loss in the San Joaquin Valley. Requiring increased density / intensity for new development than has occurred in the past, or that is expected in the future, would minimize the City's contribution to the cumulative loss of habitat. Nonetheless, this is a significant and unavoidable impact.

**b. Urban Area General Plan Mitigating Policies Applied to the Project**

Wildlife and plant habitat-related mitigating policies that are pertinent to the proposed project are found on pages V-7-18 through V-7-25 of the Master EIR. All mitigating policies appropriate to the project will be incorporated into or made conditions of approval of this project and are listed in Section V, "Mitigating Policies Applied to Project."

Discussion:

The applicable mitigating policies to be applied to this project include none from the Master EIR. No new or additional mitigation measures or alternatives are required to reduce project impacts to a less-than-significant level.

**c. Project-Specific Effects**

Section V-7.B of the Master EIR discloses impacts on the Loss of Sensitive Wildlife and Plant Habitat resulting from implementation of the Urban Area General Plan. The following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not disclosed in the Master EIR.

Significance Criteria: Determination of project effects will be based on the following thresholds. The project-specific effects will be less than significant unless:

	Potentially Significant Impact	Less Than Significant w/Mitigating Policies	Less Than Significant Impact	No Impact
<b>7. LOSS OF PLANT AND WILDLIFE HABITAT</b>				
1) The proposed project is inconsistent with the Urban Area General Plan policies related to loss of sensitive plant and wildlife habitat.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
2) The proposed project would 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"/>
3) The proposed project would 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"/>
4) The proposed project would 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"/>
5) The proposed project would 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"/>
6) The proposed project would conflict with any	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

	Potentially Significant Impact	Less Than Significant w/Mitigating Policies	Less Than Significant Impact	No Impact
local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance.				
7) The proposed project would 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"/>

**Discussion:**

- (1) The project involves the development of a commissary with food truck manufacturing/repair services in addition to commercial uses. The site is substantially surrounded by existing commercial, residential and industrial uses. The project would not be inconsistent with General Plan policies related to wildlife and plant habitat.
- (2-5) The project site is located within the Baseline Developed Area of the City and is therefore completely surrounded by developed urban area consisting of industrial and commercial uses. It is not a biologically sensitive site as defined by Figure V-7-1 of the MEIR. The California Department of Fish and Game and the U.S. Fish and Wildlife Service were consulted in the production of the MEIR.
- (6-7) The project is not in conflict with any local policies or ordinances protecting biological resources, nor is in conflict with any adopted habitat conservation plan. The city does not have a heritage tree ordinance.

**8. DISTURBANCE OF ARCHAEOLOGICAL / HISTORICAL SITES**

**a. Significant Effects Identified in the Master EIR**

The Master EIR discloses the following residual significant and unavoidable impacts on archaeological / historical sites expected after application of mitigating policies.

**Direct Impacts**

Effect: Modification resulting in a substantial adverse change in the significance of a historically relevant resource, or the demolition of a listed or eligible historically relevant resource.

**Cumulative Impacts**

Effect: No additional cumulative impacts were disclosed in the Master EIR. The Direct impact described above could also result in a significant cumulative impact.

**b. Urban Area General Plan Mitigating Policies Applied to the Project**

Archaeological or historic resource-related mitigating policies that are pertinent to the project being analyzed in this Initial Study are found on page V-8-16 through V-8-25 of the Master EIR. All mitigating policies appropriate to the project will be incorporated into or made conditions of approval of this project and are listed in Section V, "Mitigating Policies Applied to Project."

Discussion:

The applicable mitigating policies to be applied to this project include: none from the Master EIR. No new or additional mitigation measures or alternatives are required to reduce project impacts to a less-than-significant level.

**c. Project-Specific Effects**

Section V-8.B of the Master EIR discloses impacts on archaeological / historical resources resulting from implementation of the Urban Area General Plan. The following is an analysis of whether the proposed project would result in any new, significant, project-specific effect(s) not disclosed in the Master EIR.

Significance Criteria: Determination of project effects will be based on the following thresholds. The project-specific effects will be less than significant unless:

	Potentially Significant Impact	Less Than Significant w/Mitigating Policies	Less Than Significant Impact	No Impact
<b>8. ARCHAEOLOGICAL / HISTORICAL SITES</b>				
1) The proposed project is inconsistent with the Urban Area General Plan archaeological / historical resource policies.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
2) The proposed project would result in a modification that would result in a substantial adverse change in the significance of the resource or demolition of a listed or eligible historic resource.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
3) The proposed project would have an adverse effect on any structure more than 50 years old that has been determined to have historical significance per policy AH-8 as shown in the Master EIR.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
4) The proposed project would involve the removal of known significant resources.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
5) The proposed project would result in an adverse impact to undiscovered archaeological and/or paleontological resources.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
6) The proposed project would cause a substantial adverse change to a tribal cultural resource, as defined by State law, that is listed (or is eligible for listing) in the California Register of Historical Resources (or a local register of historical resources), or that otherwise has potential significance to a California Native American Tribe,	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

	Potentially Significant Impact	Less Than Significant w/Mitigating Policies	Less Than Significant Impact	No Impact
including human remains.				

Discussion:

- (1) The site is vacant undeveloped land previously entitled for commercial uses; the proposed new use would include commissary with food truck parking and manufacturing/repair services. The project would not be inconsistent with General Plan policies pertaining to archaeological or historic resources.
- (2-4) The site is vacant undeveloped land that has no value as a historical resource. There are no structures on the site.
- (5-6) The site is vacant undeveloped land that is substantially surrounded by existing commercial, industrial and residential uses. The site is not classified as being of state or federal historic status nor is eligible for listing for such status.

**9. INCREASED DEMAND FOR STORM DRAINAGE**

**a. Significant Effects Identified in the Master EIR**

The Master EIR discloses the following residual significant and unavoidable impacts on storm drainage expected after application of mitigating policies.

**Direct Impacts**

Effect: No residual significant direct impacts were disclosed in the Master EIR.

**Cumulative Impacts**

Effect: Existing drainage inadequacies, combined with the associated increase in impervious surface areas created by pavement and structures, have the potential to increase the rate or amount of runoff in a manner that could result in flooding in the urban area. Cumulative hydrologic impacts of storm water flows from Modesto’s urban areas and other areas of the County could occur due to the fixed capacity of MID and TID irrigation canals to convey drainage west to the San Joaquin River. If drainage channels in some areas prove insufficient to handle the increased drainage discharges, existing storm water runoff from urban and agricultural areas during large storm events would have to be interrupted until water levels receded to a point allowing the resumption of discharges to the channel. Ceasing discharges to drainage channels could cause inundation in and around the drainage conveyance pipeline systems, surface drainage channels, detention basins, and other urban areas. This cumulative impact is considered significant and unavoidable.

**b. Urban Area General Plan Mitigating Policies Applied to the Project**

Storm Drainage-related mitigating policies that are pertinent to the project being analyzed in this Initial Study are found on pages V-9-4 through V-9-8. All mitigating policies appropriate to the project will be

incorporated into or made conditions of approval of this project and are listed in Section V, "Mitigating Policies Applied to Project."

Discussion:

The appropriate mitigating policies to be applied to this project include: SD-10, SD-12, SD-13 and SD-15 from the Master EIR. No new or additional mitigation measures or alternatives are required to reduce project impacts to a less-than-significant level.

**c. Project-Specific Effects**

Section V-9.B of the MASTER EIR discloses impacts on the demand for storm drainage resulting from development of the Urban Area General Plan. The following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not disclosed in the Master EIR.

Significance Criteria: Determination of project effects will be based on the following thresholds. The project-specific effects will be less than significant unless:

	Potentially Significant Impact	Less Than Significant w/Mitigating Policies	Less Than Significant Impact	No Impact
<b>9. INCREASED DEMAND FOR STORM DRAINAGE</b>				
1) The proposed project is inconsistent with the Urban Area General Plan storm drainage policies.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
2) The proposed project would substantially increase the rate or amount of surface runoff in a manner that would result in on- or off-site flooding.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
3) The proposed project would create or contribute runoff water that would exceed the capacity of existing or planned storm drainage systems or provide substantial additional sources of polluted runoff.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

Discussion:

- (1) The project would not be inconsistent with the Urban Area General Plan storm drainage policies.
- (2) The project is vacant undeveloped land that is surrounded by existing commercial, industrial and residential uses. The project would be required to retain and treat storm water runoff on site per current City of Modesto standards.
- (3) The project will be required to utilize low impact strategies and meet the standards contained in the most current edition of the City of Modesto Guidance Manual for Development, Stormwater Quality Measures. This requirement will be implemented as part of the building permit process.

**10. FLOODING AND WATER QUALITY**

**a. Significant Effects Identified in the Master EIR**

The Master EIR discloses the following residual significant and unavoidable impacts on flooding and water quality expected after application of mitigating policies.

**Direct Impacts**

Effect: No residual significant direct impacts were disclosed in the Master EIR.

**Cumulative Impacts**

Effect: No residual significant cumulative impacts were disclosed in the Master EIR.

**b. Urban Area General Plan Mitigating Policies Applied to the Project**

Flooding and Water Quality-related mitigating policies that are pertinent to the project being analyzed in this Initial Study are found on pages V-10-7 through V-10-10 of the Master EIR. All mitigating policies appropriate to the project will be incorporated into or made conditions of approval of this project and are listed in Section V, "Mitigating Policies Applied to Project."

Discussion:

The appropriate mitigating policies to be applied to this project include: FWQ-11, FWQ-13, FWQ-14 and FWQ-16 from the Master EIR. No new or additional mitigation measures or alternatives are required to reduce project impacts to a less-than-significant level.

**c. Project-Specific Effects**

Section V-10.B of the Master EIR provides analysis of Flooding and Water Quality impacts of development of the General Plan, the following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not previously analyzed in the Master EIR.

Significance Criteria: Determination of project effects will be based on the following thresholds. The project-specific effects will be less than significant unless:

	Potentially Significant Impact	Less Than Significant w/Mitigating Policies	Less Than Significant Impact	No Impact
<b>10. FLOODING AND WATER QUALITY</b>				
1) The proposed project is inconsistent with the flooding and water quality policies in the Urban Area General Plan.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
2) The proposed project would place housing within a 100-year flood hazard area.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
3) The proposed project would place structures within a 100-year floodplain as defined by FEMA.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
4) The proposed project would expose people or structures to a significant risk of loss, injury or	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

	Potentially Significant Impact	Less Than Significant w/Mitigating Policies	Less Than Significant Impact	No Impact
death including flooding as a result of the failure of a levee or dam.				
5) The proposed project would substantially alter the existing drainage pattern of the site or area or the course of a stream or river that would result in flooding onsite or offsite.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
6) The proposed project would violate water quality standards, including groundwater standards administered by the SWRCB's DDW, standards for surface water quality such as the NPDES or waste discharge requirements.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
7) The proposed project would substantially alter the existing drainage pattern of the site or area or 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 type="checkbox"/>
8) The proposed project would create or contribute runoff water that would provide substantial additional sources of polluted runoff 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 type="checkbox"/>

Discussion:

- (1) The proposed project would not be inconsistent with the flooding and water quality policies in the Urban Area General Plan.
- (2-3) The project site is not within a 100-year flood hazard zone as established by the Federal Emergency Management Agency (FEMA) Flood Rate Insurance Map 06099C0551F dated August 24, 2021.
- (4) The site is not in the vicinity of a levee or dam. The nearest waterway is the Tuolumne River approximately one mile to the northwest.
- (5, 7) The project would not alter the existing drainage pattern of the site, area or a watercourse in a manner that would result in erosion or siltation.
- (6) The project would not violate water quality standards.
- (8) The project would not increase the rate or amount of surface runoff.

**11. INCREASED DEMAND FOR PARKS AND OPEN SPACE**

**a. Significant Effects Identified in the Master EIR**

The Master EIR discloses the following residual significant and unavoidable impacts on parks and open space expected after application of mitigating policies.

**Direct Impacts**

Effect: No residual significant direct impacts were disclosed in the Master EIR.

**Cumulative Impacts**

Effect: No residual significant cumulative impacts were disclosed in the Master EIR.

**b. Urban Area General Plan Mitigating Policies Applied to the Project**

Parks and open space-related mitigating policies that are pertinent to the proposed project are found on pages V-11-2 through V-11-8 of the Master EIR. All mitigating policies appropriate to the project will be incorporated into or made conditions of approval of this project and are listed in Section V, "Mitigating Policies Applied to Project."

Discussion:

The appropriate mitigating policies to be applied to this project include: none from the Master EIR. No new or additional mitigation measures or alternatives are required to reduce project impacts to a less-than-significant level.

**c. Project-Specific Effects**

Section V-11.B of the MASTER EIR discloses impacts of the Urban Area General Plan on parks and open space. The following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not disclosed in the Master EIR.

Significance Criteria: Determination of project effects will be based on the following thresholds. Project-specific effects will be less than significant unless:

	Potentially Significant Impact	Less Than Significant w/Mitigating Policies	Less Than Significant Impact	No Impact
<b>11. INCREASED DEMAND FOR PARKS AND OPEN SPACE</b>				
1) The proposed project is inconsistent with the Urban Area General Plan parks and open space policies.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
2) The proposed project would eliminate parks or open space.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
3) The proposed project would not provide at least three (3) total acres of parkland and open space per 1,000 people (one acre for neighborhood park facilities; two acres for community park facilities).	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

Discussion:

- (1) The project is consistent with the parks and open space policies in the General Plan.
- (2) The project would not eliminate an existing park or designated open space. The project is on a vacant site that is zoned for commercial uses.
- (3) The project is commercial in nature and does not involve the development of residential uses that would be required to provide for additional park space.

## **12. INCREASED DEMAND FOR SCHOOLS**

### **a. Significant Effects Identified in the Master EIR**

The Master EIR discloses the following residual significant and unavoidable impacts on school facilities expected after application of mitigating policies.

#### **Direct Impacts**

Effect: No residual significant direct impacts were disclosed in the Master EIR. By statute, the impact of new students is considered to be mitigated below a level of significance by payment of school impact fees and the exercise of any or all of the financing options set out in Government Code Section 65997.

#### **Cumulative Impacts**

Effect: Similar to direct impacts resulting from implementation of the Urban Area General Plan, no residual significant direct impacts were disclosed in the Master EIR.

### **b. Urban Area General Plan Mitigating Policies Applied to the Project**

Mitigation relies upon the implementation of the policies in place under the Modesto Urban Area General Plan. As long these policies are applied to all subsequent projects, no new mitigation is necessary. Further, payment of school impact fees and compliance with SB 50 is statutorily deemed to be full mitigation of school impacts (Government Code Section 65995).

Schools-related mitigating policies that are relevant to the proposed project can be found on pages V-12-3 through V-12-5 of the Master EIR. All mitigating policies appropriate to the project will be incorporated into or made conditions of approval of this project and are listed in Section V, "Mitigating Policies Applied to Project."

#### Discussion:

The appropriate mitigating policies to be applied to this project include: none from the Master EIR. No new or additional mitigation measures or alternatives are required to reduce project impacts to a less-than-significant level.

### **c. Project-Specific Effects**

Section V-12.B of the Master EIR discloses impacts resulting from implementation of the Urban Area General Plan associated with increased demand for schools. The following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not disclosed in the Master EIR.

Significance Criteria: Determination of project effects will be based on the following thresholds. The project-specific effects will be less than significant unless:

	Potentially Significant Impact	Less Than Significant w/Mitigating Policies	Less Than Significant Impact	No Impact
<b>12. INCREASED DEMAND FOR SCHOOLS</b>				
1) The proposed project is inconsistent with Urban Area General Plan school policies.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
2) The proposed project would result in new student population that exceeds the school system capacity, or if the project conflicts with established educational uses of the area, except to the limits established under SB50 / Proposition 1A as subsequently amended.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

Discussion:

- (1) The project is consistent with the polices relating to schools in the General Plan.
- (2) The project is commercial in nature and would not result in an increase in student population. The project was referred to Modesto City Schools, who has not indicated any concerns with the project.

**13. INCREASED DEMAND FOR POLICE SERVICES**

**a. Significant Effects Identified in the Master EIR**

The Master EIR discloses the following residual significant and unavoidable impacts on police services expected after application of mitigating policies.

**Direct Impacts**

Effect: No residual significant direct impacts were disclosed in the Master EIR.

**Cumulative Impacts**

Effect: No residual significant cumulative impacts were disclosed in the Master EIR.

**b. Urban Area General Plan Mitigating Policies Applied to the Project**

Police services-related mitigating policies that are pertinent to the proposed project are found on pages V-13-2 through V-13-5 of the Master EIR. All mitigating policies appropriate to the project will be incorporated into or made conditions of approval of this project and are listed in Section V, "Mitigating Policies Applied to Project."

Discussion:

The appropriate mitigation to be applied to this project includes none from the Master EIR. No new or additional mitigation measures or alternatives are required to reduce project impacts to a less-than-significant level.

**c. Project-Specific Effects**

Section V-13.B of the Master EIR discloses impacts on police services resulting from implementation of the Urban Area General Plan. The following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not disclosed in the Master EIR.

Significance Criteria: Determination of project effects will be based on the following thresholds. The project-specific effects will be less than significant unless:

	Potentially Significant Impact	Less Than Significant w/Mitigating Policies	Less Than Significant Impact	No Impact
<b>13. INCREASED DEMAND FOR POLICE SERVICES</b>				
1) The proposed project is inconsistent with Urban Area General Plan policies relating to police service.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
2) The proposed project would result in development occurring in an area(s) that cannot be adequately served by existing or budgeted police personnel and facilities.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

Discussion:

- (1) The project would not be inconsistent with the policies relating to police services in the General Plan.
- (2) The project is commercial in nature, to be utilized as a commercial center with commissary and food truck parking and manufacturing/repair services as an accessory use, and the area is currently served by the Modesto Police Department.

**14. INCREASED DEMAND FOR FIRE SERVICES**

**a. Significant Effects Identified in the Master EIR**

The Master EIR discloses the following residual significant and unavoidable impacts on fire services expected after application of mitigating policies.

**Direct Impacts**

Effect: No residual significant direct impacts were disclosed in the Master EIR.

**Cumulative Impacts**

Effect: No residual significant cumulative impacts were disclosed in the Master EIR.

**b. Urban Area General Plan Mitigating Policies Applied to the Project**

Fire Services-related mitigating policies pertinent to the project being analyzed in this Initial Study are found on pages V-14-3 through V-14-5 of the Master EIR. All mitigating policies appropriate to the project will be incorporated into or made conditions of approval of this project and are listed in Section V, "Mitigating Policies Applied to Project."

Discussion:

The appropriate mitigating policies to be applied to this project include: none from the Master EIR. No new or additional mitigation measures or alternatives are required to reduce project impacts to a less-than-significant level.

**c. Project-Specific Effects**

Section V-14.B of the Master EIR discloses impacts on fire services resulting from implementation of the Urban Area General Plan. The following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not disclosed in the Master EIR.

Significance Criteria: Determination of project effects will be based on the following thresholds. The project-specific effects will be less than significant unless:

	Potentially Significant Impact	Less Than Significant w/Mitigating Policies	Less Than Significant Impact	No Impact
<b>14. INCREASED DEMAND FOR FIRE SERVICES</b>				
1) The proposed project is inconsistent with Urban Area General Plan policies relating to fire service.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
2) The proposed project would result in any substantial adverse impact(s) associated with the need for – and/or provision of – new or physically altered fire service facilities, the construction of which could cause significant environmental impacts, in order to maintain acceptable response times.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

Discussion:

- (1) The project would not be inconsistent with the policies relating to fire services in the General Plan.
- (2) The project is commercial in nature and the area is currently served by the Modesto Fire Department, who indicated no concerns with the project.

**15. GENERATION OF SOLID WASTE**

**a. Significant Effects Identified in the Master EIR**

The Master EIR discloses the following residual significant and unavoidable impacts on solid waste expected after application of mitigating policies.

**Direct Impacts**

Effect: No residual significant direct impacts were disclosed in the Master EIR.

**Cumulative Impacts**

Effect: No residual significant cumulative impacts were disclosed in the Master EIR.

**b. Urban Area General Plan Mitigating Policies Applied to the Project**

Solid waste-related mitigating policies that are pertinent to the proposed project are found on pages V-15-4 through V-15-5 of the Master EIR. All mitigating policies appropriate to the project will be incorporated into or made conditions of approval of this project and are listed in Section V, "Mitigating Policies Applied to Project."

Discussion:

The appropriate mitigating policies to be applied to this project include: none from the Master EIR. No new or additional mitigation measures or alternatives are required to reduce project impacts to a less-than-significant level.

**c. Project-Specific Effects**

Section V-15.B of the Master EIR discloses solid waste impacts resulting from implementation of the Urban Area General Plan. The following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not disclosed in the Master EIR.

Significance Criteria: Determination of project effects will be based on the following thresholds. Project-specific effects will be less than significant unless:

	Potentially Significant Impact	Less Than Significant w/Mitigating Policies	Less Than Significant Impact	No Impact
<b>15. GENERATION OF SOLID WASTE</b>				
1) The project is inconsistent with the solid waste policies in the Urban Area General Plan.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
2) The project would result in solid waste generation that exceeds the projected capacity of existing landfills and waste-reduction facilities, or if it would result in non-compliance with any federal, state or local statutes or regulations related to solid waste.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

Discussion:

- (1) The project would not be inconsistent with the solid waste policies in the Urban Area General Plan.
- (2) The project would not exceed the projected capacity of existing landfills or result in non-compliance with any federal, state or local statutes or regulations related to solid waste.

**16. GENERATION OF HAZARDOUS MATERIALS**

**a. Significant Effects Identified in the Master EIR**

The Master EIR discloses the following residual significant and unavoidable impacts regarding hazardous materials expected after application of mitigating policies.

**Direct Impacts**

Effect: No residual significant direct impacts were disclosed in the Master EIR.

**Cumulative Impacts**

Effect: No residual significant cumulative impacts were disclosed in the Master EIR.

**b. Urban Area General Plan Mitigating Policies Applied to the Project**

Hazardous materials-related mitigating policies that are pertinent to the proposed project are found on pages V-16-5 through V-16-10 of the Master EIR. All mitigating policies appropriate to the project will be incorporated into or made conditions of approval of this project and are listed in Section V, "Mitigating Policies Applied to Project."

Discussion:

The appropriate mitigating policies to be applied to this project include: HM-5 and HM-8 from the Master EIR. No new or additional mitigation measures or alternatives are required to reduce project impacts to a less-than-significant level.

**c. Project-Specific Effects**

Section V-16.B of the Master EIR discloses impacts on hazardous materials resulting from implementation of the Urban Area General Plan. The following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not disclosed in the Master EIR.

Significance Criteria: Determination of project effects will be based on the following thresholds. The project-specific effects will be less than significant unless:

	Potentially Significant Impact	Less Than Significant w/Mitigating Policies	Less Than Significant Impact	No Impact
<b>16. HAZARDS AND HAZARDOUS MATERIALS</b>				

	<b>Potentially Significant Impact</b>	<b>Less Than Significant w/Mitigating Policies</b>	<b>Less Than Significant Impact</b>	<b>No Impact</b>
1) The proposed project is inconsistent with the Urban Area General Plan hazards and hazardous materials policies.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
2) The proposed project would create a significant hazard to the public or the environment through the routine transport, use or disposal of hazardous materials, or 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"/>
3) The proposed project would result in hazardous materials emissions or handle 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"/>
4) The proposed project would 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 create a significant hazard to the public or environment.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
5) For a project located within an airport land use plan or, where such a plan has not been adopted, within two (2) miles of a public airport or public use airport, would 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"/>
6) For a project within the vicinity of a private airstrip, a safety hazard would result for people residing or working in the project area.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
7) The proposed project would 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"/>
8) The proposed project would 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"/>

Discussion:

- (1) The project would not be inconsistent with the hazardous materials policies in the General Plan.
- (2-3) No hazardous materials will be involved with this project. The site is not within a quarter-mile of a school.

- (4) The site is not included on a list of hazardous materials sites compiled pursuant to Government Code Section 65962.5 and as a result, would not create a significant hazard to the public or the environment.
- (5-6) The site is not within an airport land use plan nor in the vicinity of any airports or private airfields.
- (7) The project would not interfere with an adopted emergency response or evacuation plan.
- (8) The project site is not located near any wildland areas nor is at risk for wildland fire.

## **17. GEOLOGY, SOILS, AND MINERAL RESOURCES**

### **a. Significant Effects Identified in the Master EIR**

The Master EIR discloses the following residual significant and unavoidable impacts related to geology, soils, and mineral resources expected after application of mitigating policies.

#### **Direct Impacts**

Effect: No residual significant direct impacts were disclosed in the Master EIR.

#### **Cumulative Impacts**

Effect: No residual significant cumulative impacts were disclosed in the Master EIR.

### **b. Urban Area General Plan Mitigating Policies Applied to the Project**

Geology, soils, and mineral resource-related mitigating policies that are pertinent to the proposed project are found on pages V-17-7 through V-17-10 of the Master EIR. All mitigating policies appropriate to the project will be incorporated into or made conditions of approval of this project and are listed in Section V, "Mitigating Policies Applied to Project."

#### Discussion:

The appropriate mitigating policies to be applied to this project include: none from the Master EIR. No new or additional mitigation measures or alternatives are required to reduce project impacts to a less-than-significant level.

### **c. Project-Specific Effects**

Section V-17.B of the Master EIR discloses geology, soils, and mineral resource impacts resulting from implementation of the Urban Area General Plan. The following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not disclosed in the Master EIR.

Significance Criteria: Determination of project effects will be based on the following thresholds. Project-specific effects will be less than significant unless:

	Potentially Significant Impact	Less Than Significant w/Mitigating Policies	Less Than Significant Impact	No Impact
<b>17. GEOLOGY, SOILS, AND MINERAL RESOURCES</b>				
1) The project is inconsistent with policies relating to geology, soils, and mineral resources contained in the Urban Area General Plan.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
2) The proposed project would expose people or structures to potential substantial adverse effects including: the risk of loss, injury, or death involving fault rupture, strong seismic activity; location on an expansive soil; loss of topsoil; or, result in the loss of availability of known mineral resources that would be of value to the region and the state.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

Discussion:

- (1) The project would not be inconsistent with policies relating to geology, soils, and mineral resources in the General Plan.
- (2) The project would not be located on soil that is unstable, or that would become unstable as a result of the project. There are no known mineral resources of value to the region and the state on the property.

**18. ENERGY**

**a. Significant Effects Identified in the Master EIR**

The Master EIR discloses the following residual significant and unavoidable impacts pertaining to energy expected after application of mitigating policies.

**Direct Impacts**

Effect: No residual significant direct impacts were disclosed in the Master EIR.

**Cumulative Impacts**

Effect: No residual significant cumulative impacts were disclosed in the Master EIR.

**b. Urban Area General Plan Mitigating Policies Applied to the Project**

The following energy-related mitigating policies that are pertinent to the proposed project are found on pages V-18-2 and V-18-3 in the Master EIR. All mitigating policies appropriate to the project will be incorporated into or made conditions of approval of this project and are listed in Section V, "Mitigating Policies Applied to Project."

Discussion:

The appropriate mitigating policies to be applied to this project include: none from the Master EIR. No new or additional mitigation measures or alternatives are required to reduce project impacts to a less-than-significant level.

**c. Project-Specific Effects**

Section V-18.B of the Master EIR discloses impacts of implementing the Urban Area General Plan on energy resources. The following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not disclosed in the Master EIR.

Significance Criteria: Determination of project effects will be based on the following thresholds. The project-specific effects will be less than significant unless:

	Potentially Significant Impact	Less Than Significant w/Mitigating Policies	Less Than Significant Impact	No Impact
<b>18. ENERGY</b>				
1) The proposed project is inconsistent with policies relating to energy in the Urban Area General Plan.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
2) The proposed project would result in energy consumption during construction, operation, maintenance, or removal that is more wasteful, inefficient, and unnecessary than assumed in the Urban Area General Plan.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

Discussion:

- (1) The project would not be inconsistent with the energy policies in the General Plan.
- (2) The project would not result in energy consumption during construction, operation, maintenance or removal that is more wasteful, inefficient and unnecessary than assumed in the General Plan.

**19. EFFECTS ON VISUAL RESOURCES**

**a. Significant Effects Identified in the Master EIR**

The Master EIR discloses the following residual significant and unavoidable impacts on visual resources expected after application of mitigating policies.

**Direct Impacts**

Effect: No residual significant direct impacts were disclosed in the Master EIR.

**Cumulative Impacts**

Effect: No additional cumulative impacts were disclosed in the Master EIR.

**b. Urban Area General Plan Mitigating Policies Applied to the Project**

The following visual resources-related mitigating policies pertinent to the proposed project are found on pages V-19-2 and V-19-3 in the Master EIR. All mitigating policies appropriate to the project will be incorporated into or made conditions of approval of this project and are listed in Section V, "Mitigating Policies Applied to Project."

Discussion:

The appropriate mitigating policies to be applied to this project include: none from the Master EIR. No new or additional mitigation measures or alternatives are required to reduce project impacts to a less-than-significant level.

**c. Project-Specific Effects**

Section V-18.B of the Master EIR discloses impacts of implementing the Urban Area General Plan on visual resources. The following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not disclosed in the Master EIR.

Significance Criteria: Determination of project effects will be based on the following thresholds. The project-specific effects will be less than significant unless:

	Potentially Significant Impact	Less Than Significant w/Mitigating Policies	Less Than Significant Impact	No Impact
<b>19. VISUAL RESOURCES</b>				
1) The proposed project is inconsistent with the Urban Area General Plan visual resource policies.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
2) The proposed project would have a substantial adverse effect on a scenic vista.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
3) The proposed project would substantially damage scenic resources, including trees, rock outcrops, and/or historic buildings along a state scenic highway.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
4) The proposed project would 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"/>
5) The proposed project would create a new source of substantial light or glare that would adversely affect daytime or nighttime views.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
6) The proposed project would substantially degrade views from riverside areas and parks.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
7) The proposed project would substantially degrade views of riverside areas from public roadways and/or nearby properties.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

Discussion:

- (1) The project would not be inconsistent with the policies relating the visual resources in the General Plan.
- (2) The project would not have an adverse impact on a scenic vista. The site is located within the Baseline Urbanized Area of the City and is surrounded by urban uses.
- (3-4) The project would not impact scenic resources, nor degrade the existing visual character or quality of the site and its surroundings.
- (5) The project would not cause substantial light or glare.
- (6) The project would not impact views from riverside areas and parks. The nearest riverside area or park is the Tuolumne River, approximately one mile to the northwest.
- (7) The project would not impact views of riverside areas from roadways or nearby properties.

## **20. LAND USE AND PLANNING**

### **a. Significant Effects Identified in the Master EIR**

The Master EIR discloses the following residual significant and unavoidable impacts pertaining to land use and planning expected after application of mitigating policies.

#### **Direct Impacts**

Effect: No residual significant direct impacts were disclosed in the Master EIR.

#### **Cumulative Impacts**

Effect: No residual significant cumulative impacts were disclosed in the Master EIR.

### **b. Master EIR and/or New Mitigation Measures Applied to the Project**

The following land use and planning-related mitigating policies pertinent to the proposed project are found on pages V-20-5 through V-20-12 in the Master EIR. All mitigating policies appropriate to the project will be incorporated into or made conditions of approval of this project and are listed in Section V, "Mitigating Policies Applied to Project."

Discussion:

The appropriate mitigating policies to be applied to this project include: none from the Master EIR. No new or additional mitigation measures or alternatives are required to reduce project impacts to a less-than-significant level.

### **c. Project-Specific Effects**

Section V-20.B of the Master EIR discloses impacts of implementing the Urban Area General Plan on land use and planning. The following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not disclosed in the Master EIR.

Significance Criteria: Determination of project effects will be based on the following thresholds. The project-specific effects will be less than significant unless:

	Potentially Significant Impact	Less Than Significant w/Mitigating Policies	Less Than Significant Impact	No Impact
<b>20. LAND USE AND PLANNING</b>				
1) The proposed project is inconsistent the Urban Area General Plan land use and planning policies.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
2) The proposed project contains elements that would physically divide an established community in a way not assumed in the Urban Area General Plan.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
3) The proposed project conflicts with a land use plan, policy or regulation established for the purpose of avoiding or mitigating an environmental impact by an agency that has jurisdiction over the proposed project.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
4) The proposed project conflicts with an applicable habitat conservation plan or natural community conservation plan.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

Discussion:

- (1) The project site is designated as Commercial (C) in the General Plan, and the proposed uses of commissary with food truck parking and manufacturing/repair services and commercial uses are consistent with the Land Use designation. Food truck manufacturing/repair services are an accessory use to the proposed commercial uses. Therefore, the project is consistent with land use and planning policies in the General Plan.
- (2) The project would not divide an established community. The surrounding area is developed with commercial, industrial and residential uses.
- (3) The project does not conflict with the land use plan, policies and regulations of the City of Modesto designed to mitigate project impacts.
- (4) The project does not conflict with applicable habitat conservation plans or natural community conservation plans.

**V. APPLICABLE URBAN AREA GENERAL PLAN MITIGATING POLICIES**

If the Initial Study results in the determination that a Finding of Conformance can be adopted for the proposed project, then Section A, below, applies. If the Initial Study results in the determination that a Finding of Conformance cannot be adopted and a Mitigated Negative Declaration or Focused EIR must be prepared for the project, then Section B, below, applies.

## **A. Urban Area General Plan Mitigating Policies Applied to the Project**

Pursuant to Public Resources Code Section 21157.1(c), in order for a Finding of Conformance to be made, all appropriate mitigating policies from the Master EIR shall be incorporated into the proposed project. Urban Area General Plan Policies that mitigate impacts shall be made part of the proposed project prior to approval by means of conditions of project approval or incorporation into the appropriate document or plan. All applicable and appropriate mitigating policies have been applied to the project (listed below).

## **B. New or Additional Mitigation Measures or Alternatives Required**

Where the project's effects would exceed the significance criteria for each environmental impact category, a mitigated negative declaration or Focused EIR must be prepared. Staff has reviewed the project against the significance criteria thresholds established in the Master EIR for all impact categories in this Initial Study.

A Mitigated Negative Declaration or Focused EIR shall be prepared for the project. The following additional project-specific mitigation measures listed below are necessary to reduce the identified new significant effect: none.

### **Traffic and Circulation:**

There are no standard / typical examples of general plan policies that would mitigate project-specific impacts for this category. Traffic study(ies) may be required for any given project(s).

### **Air Quality and Greenhouse Gases:**

**AQ-100.** Reduce particulate emissions from construction, grading, excavation, and demolition to the maximum extent feasible in accordance with the requirements of SJVAPCD Regulation VIII. Regulation VIII was adopted to reduce the amount of particulate matter suspended in the atmosphere as a result of emissions generated from anthropogenic (man-made) fugitive dust sources. (Policy VII.H.2.jj)

**AQ-101.** Require all access roads, driveways, and parking areas serving new commercial and industrial development to be constructed with materials that minimize particulate emissions in accordance with the requirements of SJVAPCD Regulation VIII and are appropriate to the scale and intensity of use. (Policy VII.H.2.kk)

**AQ-103.** Effectively stabilize dust emissions using water, chemical stabilizer / suppressant, cover with a tarp or other suitable cover or vegetative ground cover, all disturbed areas, including storage piles, which are not being actively utilized for construction purposes. (Policy VII.H.2.mm)

**AQ-104.** Effectively stabilize dust emissions using water or chemical stabilizer / suppressant, all onsite unpaved roads and off-site unpaved access roads. (Policy VII.H.2.nn)

**AQ-105.** Effectively control fugitive dust emissions utilizing application of water or by presoaking all land clearing, grubbing, scraping, excavation, land leveling, grading, cut & fill, and demolition activities. (Policy VII.H.2.oo)

**AQ-107.** When materials are transported off site, cover all materials, or effectively wet them to limit visible dust emissions, and maintain at least six inches of freeboard from top of container. (Policy VII.H.2.qq)

**AQ-108.** Limit operations 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.) (Policy VII.H.2.rr)

**AQ-109.** Following the addition of materials to, or the removal of materials from, the surface of outdoor storage piles, effectively stabilize said piles for fugitive dust emissions utilizing sufficient water or chemical stabilizer / suppressant. (Policy VII.H.2.ss)

**AQ-110.** Within urban areas, immediately remove trackout when it extends 50 or more feet from the site and at the end of each workday. (Policy VII.H.2.tt)

**AQ-111.** Prevent carryout and trackout for any site with 150 or more vehicle trips per day. (Policy VII.H.2.uu)

**AQ-112.** Limit traffic speeds on unpaved roads to 15 mph. (Policy VII.H.2.vv)

**AQ-113.** Install sandbags or other erosion control measures to prevent silt runoff to public roadways from sites with a slope greater than one percent (1%). (Policy VII.H.2.ww)

**AQ-114.** Install wheel washers for all exiting trucks, or wash all trucks and equipment leaving the site. (Policy VII.H.2.xx)

**AQ-115.** Install wind breaks at windward side(s) of construction areas. (Policy VII.H.2.yy)

**AQ-116.** Suspend excavation and grading activity when winds exceed 20 mph (regardless of windspeed, an owner/operator must comply with Regulation VIII's 20 percent opacity limit). (Policy VII.H.2.zz)

**AQ-117.** Limit the area subject to excavation, grading, and other construction activity at any one time. (Policy VII.H.2.aaa)

### **Generation of Noise and Vibration:**

**Noise-4.** Implement noise-reducing construction practices as conditions of approval where substantial construction-related noise impacts would be likely to occur, such as with extended periods of pile driving, or where construction is expected to continue or where sensitive receptors would be affected by construction noise. Conditions of approval may include, but are not limited to:

- Require construction equipment, including air compressors and pneumatic equipment to have properly maintained mufflers;
- Require impact tools to be equipped with shrouds or shields;
- Require that the quietest equipment available be used; and,
- Require selection of haul routes that affect the fewest number of people. (Policy VII-G.3.b)

### **Effects on Agricultural Lands:**

N/A

### **Increased Demand for Long-Term Water Supplies:**

There are no standard / typical examples of general plan policies that would mitigate project-specific impacts for this category. Water studies / analyses may be required depending on the scope or location of the proposed development project.

### **Increased Demand for Sanitary Sewer Services:**

There are no standard / typical examples of general plan policies that would mitigate project-specific impacts for this category. Sanitary sewage generation and/or capacity studies may be required depending on the scope or location of the proposed development project.

### **Loss of Sensitive Wildlife and Plant Habitat:**

**SWPH-11.** For proposed development consistent with the adopted Urban Area General Plan on lands within the Baseline Developed Area and Downtown, exclusive of lands within the Dry Creek and Tuolumne River Comprehensive Planning Districts, an assessment of whether any potential habitat for special-status species is present within proposed development areas shall be made. No further biological study is warranted unless habitat is present or if specific information concerning the known or potential presence of significant biological resources is identified in future updates of the California Natural Diversity Database, or through formal or informal input received from resource agencies or other qualified sources (Policy VII-E.2[a]).

(Check the MEIR for required species-specific surveys – mostly applicable in the PUA and around the periphery of the City’s urbanized / developed area.)

### **Disturbance of Archaeological / Historic Sites:**

N/A

### **Increased Demand for Storm Drainage:**

**SD-10.** Construction activities shall comply with the requirements of the City’s Stormwater Management Plan under its municipal NPDES stormwater permit, and the State Water Resources Control Board’s General Permit for Discharges of Storm Water Associated with Construction Activity. (Policy VI.G.3)

**SD-12.** Ensure that new development complies with the City of Modesto’s *Stormwater Management Program: Guidance Manual for New Development Stormwater Quality Control Measures*. (Policy VI.G.5)

**SD-13.** Require new development to implement an appropriate selection of permanent pollution control measures in accordance with the City’s implementation policies for the municipal NPDES stormwater permit. (Policy VI.G.6)

**SD-15.** Integrate Low Impact Development principles into proposed development projects’ design. Low Impact Development is a storm water management and land development strategy that promotes conservation and use of natural on-site features combined with engineered small-scale hydrologic devices. In designing development projects, minimize the amount of impervious surface in order to maximize on-site infiltration of stormwater runoff and minimize the potential for storm water runoff from the site. (Policy VI.G.8)

### **Flooding and Water Quality:**

**FWQ-11.** Construction activities shall comply with the requirements of the City's Storm Water Management Plan under its municipal NPDES stormwater permit, and the State Water Resources Control Board's General Permit for Discharges of Storm Water Associated with Construction Activity. (Policy VI.G.3)

**FWQ-13.** Ensure that new development complies with the City of Modesto's Stormwater Management Program: Guidance Manual for New Development Stormwater Quality Control Measures. (Policy VI.G.5)

**FWQ-14.** Require new development to implement an appropriate selection of permanent pollution control measures in accordance with the City's implementation policies for the municipal NPDES stormwater permit. (Policy VI.G.6)

**FWQ-16.** Integrate Low Impact Development principles into proposed development projects' design. Low Impact Development is a storm water management and land development strategy that promotes conservation and use of natural on-site features combined with engineered small-scale hydrologic devices. In designing development projects, minimize the amount of impervious surface in order to maximize on-site infiltration of stormwater runoff and minimize the potential for storm water runoff from the site. (Policy VI.G.8)

### **Increased Demand for Parks and Open Space:**

There are no standard / typical examples of general plan policies that would mitigate project-specific impacts for this category.

### **Increased Demand for Schools:**

There are no standard / typical examples of general plan policies that would mitigate project-specific impacts for this category.

### **Increased Demand for Police Services:**

There are no standard / typical examples of general plan policies that would mitigate project-specific impacts for this category.

### **Increased Demand for Fire Services:**

There are no standard / typical examples of general plan policies that would mitigate project-specific impacts for this category.

### **Generation of Solid Waste:**

There are no standard / typical examples of general plan policies that would mitigate project-specific impacts for this category.

### **Generation of Hazardous Materials:**

**HM-5.** In the event that site inspection or construction activities uncover chemical contamination, underground storage tanks, abandoned drums, or other hazardous materials or wastes at a parcel, the inspection report preparer shall so notify the City. The City shall notify the County Health

Services Department. Under the direction of these agencies, a site remediation plan would be prepared by the project applicant.

The plan would (1) specify measures to be taken to protect workers and the public from exposure to potential site hazards and (2) certify that the proposed remediation measures would clean up the wastes, dispose the wastes, and protect public health in accordance with federal, state, and local requirements. Permitting or work in the areas of potential hazard shall not proceed until the site remediation plan is on file with the City.

If a parcel is found to be contaminated to a level that prohibits the proposed use, the potential for reduction of the hazard should be evaluated. Site remediation is theoretically capable of removing hazards to levels sufficiently low to allow any use at the site. In practice, both the technical feasibility of the remediation and its cost (financial feasibility) should be evaluated in order to determine the overall feasibility of locating a specific use on a specific site. In some cases, it may require restriction to industrial use or a use that involves complete paving and covering of the parcel.

In accordance with OSHA requirements, any activity performed at a contaminated site shall be preceded by preparation of a separate site health and safety plan (prepared by the project applicant and filed with the City) for the protection of workers and the public. All reports, plans, and other documentation shall be added to the administrative record. (Policy VI.M.3)

**HM-8.** Applicants for building permits should determine that a site containing or formerly containing residences or farm buildings / structures has been fully investigated for the presence of hazardous materials or wastes prior to issuance of the permit. Investigation should consist of, at minimum, a Phase I environmental site assessment and a Phase II site assessment, if found necessary as a result of the Phase I assessment. The findings of the site assessment should be reported to the City and the County's Department of Environmental Resources. The appropriate remediation should occur prior to final occupancy of the approved development. (Policy VI.M.6)

### **Geology, Soils, and Mineral Resources:**

There are no standard / typical examples of general plan policies that would mitigate project-specific impacts for this category.

### **Energy:**

There are no standard / typical examples of general plan policies that would mitigate project-specific impacts for this category.

### **Effects on Visual Resources:**

There are no standard / typical examples of general plan policies that would mitigate project-specific impacts for this category.

### **Land Use and Planning:**

There are no standard / typical examples of general plan policies that would mitigate project-specific impacts for this category.

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2022-323**

**RESOLUTION APPROVING A MASTER PROPERTY TAX REVENUE  
AGREEMENT WITH STANISLAUS COUNTY**

WHEREAS, distribution for property tax dollars in the State of California is the result of tax reform (Proposition 13 in 1978) and legislation (Assembly Bill (AB) 8 in 1979) required to rebalance revenue streams between the State and local governments. Proposition 13 and AB 8 established significant changes in how property tax rates are set and distributed to cities, counties, special districts, schools, and community colleges; and

WHEREAS, the City of Modesto receives approximately 9.6% of the total property tax allocations within the City; and

WHEREAS, this property tax allocation is a net of a revenue shift sent to the Educational Revenue Augmentation Fund (ERAF). ERAF is redirected property tax revenue from cities, counties, and special districts to schools and colleges. ERAF is deposited into a countywide account and is allocated to schools and community colleges within the county to offset the funding these entities would receive from the State General Fund; and

WHEREAS, California Revenue and Taxation Code section 99, authorizes counties, cities and special districts to enter into standing master property tax sharing agreements. In absence of a master property tax sharing agreement, the sharing of property tax is negotiated on an individual basis after a city files an annexation application with the Local Agency Formation Commission (LAFCO); and

WHEREAS, master property tax sharing agreements are valuable in that they provide consistency and efficiency in the annexation process; and

WHEREAS, the City of Modesto has numerous tax sharing agreements with the County spanning multiple years as far back as 1982. All agreements divide up both the base property tax value (property tax value in the tax year immediately preceding annexation) and the increment (total increase/decrease in assessed valuation after annexation and development); and

WHEREAS, the current Master Property Tax Agreement was entered into by Stanislaus County and each of the nine cities in the County in 1996, with a subsequent technical amendment occurring in 2006 (the “1996 Agreement”); and

WHEREAS, under the current agreement, the County receives 100% of the property base tax revenue, and the property tax revenue growth is split so the County receives 70% and the cities receive 30%; and

WHEREAS, since the creation of the 1996 Agreement, many separate tax sharing agreements for specific areas have also occurred; and

WHEREAS, over the past several months the City Manager and staff have been working with the County Chief Executive Officer and a subcommittee of City Managers representing all nine cities to evaluate various proposals for an updated property tax sharing agreement; and

WHEREAS, through this coordinated effort, the Proposed Master Property Tax Revenue Agreement was developed; and

WHEREAS, under the proposed agreement property tax revenue growth for those specifically identified properties subject to the 1996 Agreement will be shared evenly between City and County: 50% to City and 50% to County; and

WHEREAS, property tax revenue growth for properties annexed in the future will be shared evenly between City and County: 50% to City and 50% to County, unless otherwise negotiated by the parties. Annexations that include a County Island would require a separate agreement; and

WHEREAS, on June 14 the Board of Supervisor approved the proposed Master Property Tax Revenue Agreement; and

WHEREAS, the proposed Master Property Tax Revenue Agreement is expected to result in approximately \$230,000 in additional revenue for the City, and that amount could increase if future annexations and development occurs; and

WHEREAS, the City Council desires to approve the proposed Master Property Tax Revenue Agreement in order to increase the City's share of property tax revenue, as well as increase consistency and efficiency for future annexations.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the proposed Master Property Tax Revenue Agreement with Stanislaus County.

BE IT FURTHER RESOLVED, that the City Manager, or his designee is hereby authorized to execute the agreement, in a form approved by the City Attorney.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 12th day of July, 2022, by Councilmember Escutia-Braaton, who moved its adoption, which motion being duly seconded by Councilmember Wright, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Escutia-Braaton, Kenoyer, Madrigal, Ricci, Wright, Mayor Zwahlen

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST:   
DIANE NAYARES-PEREZ, CMC,  
City Clerk

(SEAL)

APPROVED AS TO FORM:

BY:   
JOSE M. SANCHEZ, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2022-324**

**RESOLUTION APPROVING A BLIGHT ABATEMENT PILOT PROGRAM  
AND THE “MODESTO MO’ BEAUTIFUL” SLOGAN FOR EDUCATION AND  
OUTREACH ON BLIGHT ABATEMENT PROGRAMS IN ACCORDANCE  
WITH THE 2020-2025 BLIGHT ABATEMENT STRATEGY, AND  
ALLOCATING \$750,000 IN AMERICA RESCUE PLAN ACT FUNDING  
TOWARD BLIGHT ABATEMENT EFFORTS**

WHEREAS, the City of Modesto has implemented a series of blight abatement campaigns over the course of the last 30 years, and

WHEREAS, beginning in 1994, the Neighborhood Environmental Action Team (NEAT) channeled volunteer group action through the adoption of “Neat Zones,” and

WHEREAS, in 2003, the Modesto City Council approved the “Don’t Trash Modesto” campaign which allowed groups to sponsor the on-going litter clean-up in an area, typically conducted by Honor Farm inmates, and

WHEREAS, the program operated successfully until 2008, when the recession caused a reduction in available resources, and

WHEREAS, any existing programs from these previous efforts are funded and conducted through the City’s routine maintenance of landscaping, public spaces, and right of ways, and

WHEREAS, blight continues to be a key issue for Modesto, as identified in the 2019 citywide community survey, blight is one of the most pressing concerns of residents, and

WHEREAS the same year, the City adopted the 2020-2025 Blight Abatement Strategy, developed through collaboration with community members, past partners, other agencies, and internal City departments, and

WHEREAS, the strategy outlines initiatives for blight abatement in both public and private property, partnerships with community groups and stakeholders, and the formation of the Blight Abatement Advisory Committee, and

WHEREAS, the Blight Abatement Program was approved as an expenditure within the Modesto Forward Strategy, adopted under Resolution 2021-194, which addresses applicable uses of ARPA funds and the goals the City of Modesto intends to meet with those funds, and

WHEREAS, the Blight Abatement Program is a pilot program that demonstrates the City's commitment and multifaceted efforts to abate blight and illegal dumping through communication and education, improve blighted private property, and enhance community engagement through a creative campaign slogan, and

WHEREAS, this proposal is intended to broaden the scope, awareness, training, participation and partnerships, and

WHEREAS, the City also intends to make an additional allocation as part of the second allotment of ARPA funds that the City expects to receive from the Treasury Department to extend the term of the pilot period, and

WHEREAS, following the pilot period, the City will pursue sustainable funding sources to ensure the program continues into the future and leverage data collected during the pilot period to make informed policy and funding recommendations, and

WHEREAS, staff anticipates a total cost of \$750,000 to implement the Blight Abatement Pilot Program components, as detailed below:

- 1. *Solid Waste Abatement Team – \$300,000***

A consistent concern from residents is the amount of time required for the abatement of blight issues; the current timeline for illegal dumping can take between 4-15 days to abate as code enforcement staff investigate and resolve the issue. To help address this, City staff intends to utilize funding to hire two limited-term (one-year) Maintenance Worker I positions, a truck, and a trailer to exclusively address illegal dumping where a responsible party cannot be determined. Funding will also cover disposal costs for collected bulky items and litter. By streamlining the process through these proposed staff members, the City can remove approximately half of all illegal dumping with 3-5 days of reporting and discourage further dumping.

***2. ARPA Homeowner Rehabilitation Program – \$250,000***

The City currently has a Homeowner Repair Program funded by Community Development Block Grant funding and has a Revolving Loan Fund which sustains the program through the income that it generates, which are both directly aimed at addressing private property nuisance issues and supporting residents with health and safety repairs. The current funding source allows for clients to be served who earn up to 80% of the area median income. Single family homeowners are able to qualify for a 20-year deferred loan at 3% interest with 20% of the total project costs granted after a 10-year affordability period. Mobile homes are granted up to \$20,000 forgiven after a 5-year affordability period. The program typically expends \$300,000 annually serving approximately 15-20 households in our community.

The requested funding will expand the program to residents who earn 140% of the Area Median Income, which would extend the reach and benefits of this program. Residents may qualify for up to \$25,000 in assistance for the repairs with a 10% grant of up to \$2,500. Financing will consist of a 10-year loan with a 3% annual accrual of interest. The program expansion requires a new policy to define the program eligibility of homeowners, repayment period, and requirements associated with the funding that is required to be approved by the City Council. The key element of the new policy expands the income eligibility from 80% to 140% of the Area Median Income, effectively increasing the income limit for a family of four from \$63,750 to \$114,780. This program and policy will expand the program benefits to approximately half of Modesto residents, based on census data.

### ***3. Procurement of Cameras – \$100,000***

The City also recommends the purchase of approximately 6 cameras to deter residents from illegal behavior and to support staff with enforcing hot spot areas in the community. With this allocation, the city estimates being able to purchase 6 additional cameras. The City is currently utilizing 3 cameras to deter illegal dumping in several areas and has been successful in ensuring the city is able to enforce the issue and securing several thousand dollars in fines. The proposed increase in cameras will support the ongoing initiative to help prevent illegal behavior such as dumping and also support with enforcement. The cost of a single camera is approximately \$15,000.

### ***4. Public Beautification Projects – \$50,000***

Several community organizations have proposed beautification projects to the city that are creative and innovative and due to funding and resource constraints the city was unable to support the proposals. This allocation is intended to release a Call for Projects to local organizations that have historically been interested in beautification projects. Interested organizations may include the Dry Creek Trails Coalition, Operation 9-2-99, Love Modesto, Modesto Neighborhoods, Inc., and several others to support blight abatement or public beautification projects. Staff anticipates launching a Call for Projects in coordination with several departments in mid-2022, making varying amounts available to organizations to support their initiatives. The review and award process will be established in coordination with the Blight Abatement Advisory Committee, and will be subject to approval by the Council.

***5. Blight Abatement Advisory Committee Priorities – \$50,000***

The newly established Blight Abatement Advisory Committee has identified several blight abatement initiatives as priorities of the committee. In an effort to promote their ideas and begin the implementation phase, staff recommends allocating \$50,000 to implement various initiatives that the Committee has proposed. The Blight Abatement Advisory Committee will determine which priorities within the Blight Abatement Strategy that it would like to pursue, and will be subject to approval by the Council.

WHEREAS, the blight Abatement Pilot Program would be funded entirely by ARPA funds as designated in the Modesto Forward Strategy, and

WHEREAS, this item was considered by the Safety and Communities Committee on April 11<sup>th</sup>, 2022 and was approved to be forwarded to Council for consideration.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves a Blight Abatement Pilot Program and the “Modesto Mo’ Beautiful” Slogan for education and outreach on the Blight Abatement Programs in accordance with the 2020-2025 Blight Abatement Strategy, and allocates \$750,000 in America Rescue Plan Act Funding toward blight abatement efforts.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 12th day of July, 2022, by Councilmember Wright, who moved its adoption, which motion being duly seconded by Councilmember Ricci, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Escutia-Braaton, Kenoyer, Madrigal, Ricci, Wright, Mayor Zwahlen

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST:   
DIANE NAYARÉS-PÉREZ, CMC,  
City Clerk

(SEAL)

APPROVED AS TO FORM:

BY:   
JOSE M. SANCHEZ, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2022-325**

**RESOLUTION APPROVING AN AMERICAN RESCUE PLAN ACT (ARPA) HOMEOWNER REHABILITATION PROGRAM POLICY DEFINING THE STRUCTURE OF THE PROGRAM, AND ALLOCATING \$250,000 FROM THE \$750,000 ALLOCATION IN AMERICAN RESCUE PLAN FUNDS FOR THE BLIGHT ABATEMENT PILOT PROGRAM**

WHEREAS, the City of Modesto has implemented a series of blight abatement campaigns over the course of the last 30 years, and

WHEREAS, beginning in 1994, the Neighborhood Environmental Action Team (NEAT) channeled volunteer group action through the adoption of “Neat Zones,” and

WHEREAS, in 2003, the Modesto City Council approved the “Don’t Trash Modesto” campaign which allowed groups to sponsor the on-going litter clean-up in an area, typically conducted by Honor Farm inmates, and

WHEREAS, the program operated successfully until 2008, when the recession caused a reduction in available resources, and

WHEREAS, any existing programs from these previous efforts are funded and conducted through the City’s routine maintenance of landscaping, public spaces, and right of ways, and

WHEREAS, blight continues to be a key issue for Modesto, as identified in the 2019 citywide community survey, blight is one of the most pressing concerns of residents, and

WHEREAS the same year, the City adopted the 2020-2025 Blight Abatement Strategy, developed through collaboration with community members, past partners, other agencies, and internal City departments, and

WHEREAS, the strategy outlines initiatives for blight abatement in both public and private property, partnerships with community groups and stakeholders, and the formation of the Blight Abatement Advisory Committee, and

WHEREAS, the Blight Abatement Program was approved as an expenditure within the Modesto Forward Strategy, adopted under Resolution 2021-194, which addresses applicable uses of ARPA funds and the goals the City of Modesto intends to meet with those funds, and

WHEREAS, the Blight Abatement Program is a pilot program that demonstrates the City's commitment and multifaceted efforts to abate blight and illegal dumping through communication and education, improve blighted private property, and enhance community engagement through a creative campaign slogan, and

WHEREAS, the City currently has a Homeowner Repair Program funded by Community Development Block Grant funding and has a Revolving Loan Fund which sustains the program through the income that it generates, which are both directly aimed at addressing private property nuisance issues and supporting residents with health and safety repairs, and

WHEREAS, the current funding source allows for clients to be served who earn up to 80% of the area median income. Single family homeowners are able to qualify for a 20-year deferred loan at 3% interest with 20% of the total project costs granted after a 10-year affordability period, and

WHEREAS, mobile homes are granted up to \$20,000 forgiven after a 5-year affordability period. The program typically expends \$300,000 annually serving approximately 15-20 households in our community, and

WHEREAS, the requested funding will expand the program to residents who earn 140% of the Area Median Income, which would extend the reach and benefits of this program, and

WHEREAS, residents may qualify for up to \$25,000 in assistance for the repairs with a 10% grant of up to \$2,500. Financing will consist of a 10-year loan with a 3% annual accrual of interest, and

WHEREAS, the program expansion requires a new policy to define the program eligibility of homeowners, repayment period, and requirements associated with the funding, and

WHEREAS, the key element of the new policy expands the income eligibility from 80% to 140% of the Area Median Income, effectively increasing the income limit for a family of four from \$63,750 to \$114,780, and

WHEREAS, this program and policy will expand the program benefits to approximately half of Modesto residents, based on census data, and

WHEREAS, following the pilot period, the City will pursue sustainable funding sources to ensure the program continues into the future and leverage data collected during the pilot period to make informed policy and funding recommendations, and

WHEREAS, the blight Abatement Pilot Program would be funded entirely by ARPA funds as designated in the Modesto Forward Strategy, and

WHEREAS, this item was considered by the Safety and Communities Committee on April 11<sup>th</sup>, 2022 and was approved to be forwarded to Council for consideration.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves an American Rescue Plan Act (ARPA) Homeowner

Rehabilitation Program Policy defining the structure of the program, and allocating \$250,000 from the \$750,000 allocation in American Rescue Plan funds for the Blight Abatement Pilot Program.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 12th day of July, 2022, by Councilmember Wright, who moved its adoption, which motion being duly seconded by Councilmember Ricci, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Escutia-Braaton, Kenoyer, Madrigal, Ricci, Wright, Mayor Zwahlen

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST:   
DIANE NAYARES-PIREZ, CMC,  
City Clerk

(SEAL)

APPROVED AS TO FORM:

BY:   
JOSE M. SANCHEZ, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2022-326**

**RESOLUTION AMENDING THE POSITION ALLOCATION FOR FISCAL  
YEAR 2021-22 AS ADOPTED IN THE OPERATING BUDGET**

WHEREAS, a Position Allocation for the City of Modesto was adopted by Modesto City Council on June 23, 2021, as part of the Annual Budget of the City of Modesto for Fiscal Year 2021-22, and

WHEREAS, classification studies are conducted to ensure that a classification system is equitable and consistent within an organization and that positions are correctly classified, and

WHEREAS, per Personnel Administrative Order 2.2-87-12, a classification study may be conducted in response to a reclassification request, to develop/revise a classification specification, or to assist in a reorganization, and

WHEREAS, classification studies were conducted by Human Resources to determine appropriate classifications, and

WHEREAS, position changes will be effective the first day of the pay period upon adoption, unless otherwise noted.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves amending the Position Allocation and the Fiscal Year 2021-22 Operating Budget for various departments as follows:

1. Add two (2) Maintenance Worker I in the Solid Waste (56018) division of the Public Works Department.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 12th day of July, 2022, by Councilmember Wright, who moved its adoption, which motion being duly seconded by Councilmember Ricci, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Escutia-Braaton, Kenoyer, Madrigal, Ricci, Wright, Mayor Zwahlen

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST:   
DIANE NAYARES-PEREZ, CMC,  
City Clerk

(SEAL)

APPROVED AS TO FORM:

BY:   
JOSE M. SANCHEZ, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2022-327**

**RESOLUTION APPROVING THE CITY'S PANDEMIC RECOVERY STRATEGY, MODESTO FORWARD, FOR THE USE OF THE SECOND ALLOCATION OF AMERICAN RESCUE PLAN FUNDS AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO CARRY OUT THE NECESSARY STEPS TO IMPLEMENT THE PROGRAMS AND FUNDING ALLOCATIONS**

WHEREAS, since the adoption of the local health emergency, the City has implemented a variety of measures and programs to help slow the spread of COVID-19 and mitigate the associated impact of the pandemic, and

WHEREAS, the response has included safe transit opportunities available at no cost, open-air program for restaurants, business enforcement and monitoring programs, small business grants, adjustments/closures to city facilities, in-door shelter for at-risk homeless individuals, and telecommuting opportunities for employees, and

WHEREAS, the City also has directly supported the County with making testing centers and a vaccine clinic available that are directly managed and supported by City personnel, and

WHEREAS, the State and Federal government have also taken bold steps to support local governments with their response to the pandemic, including through the signing of the Coronavirus, Aid, Relief, and Economic Security (CARES) Act that made \$30 million for the City for various programs, and

WHEREAS, in April 2021, President Biden signed into law the American Rescue Plan Act a \$1.9 trillion emergency relief measure intended to provide relief to address the impact of COVID-19, and

WHEREAS, the American Rescue Plan Act is making available \$45,897,056 to the City of Modesto to help address the local impact of COVID-19, and

WHEREAS, the Treasury Department has released interim guidance to-date and considers the following 6 categories as allowable uses: Public Health Response, Address Negative Economic Impact, Supporting Hardest-Hit Communities and Families, Replacing Lost Public Sector Revenue, Investments in Water and Sewer Infrastructure, and Investments in Broadband, and

WHEREAS, on May 25, 2021, by Resolution 2021-194, the City Council approved the original spending plan for the allocation made available in May 2021, and

WHEREAS, the final rule outlining the restrictions of the funds was released by the Treasury Department in January 2022, and

WHEREAS, on February 8, 2022, by Resolution 2022-104, the City Council modified the original spending plan for the first allotment of funds, and

WHEREAS, to arrive at the proposed expenditure plan for the second allotment of funds, staff solicited priorities from the public in the form of a survey and the Council at the three standing City Council Committees: Economic Development, Safety and Communities, and Finance, and

WHEREAS, with the information from the Council and community, staff reviewed the eligibility of expenses, and

WHEREAS, staff is recommending the following proposed programs:

Pilot Programs - \$3 million  
COVID Reserve Funding: - \$8.1 million

- The Council and community expressed an interest in continuing many of the pilot initiatives that were launched as part of the 2021 spending plan and expressed a desire to extend the program periods with funds made available from the second allotment of ARPA funds. Further, the City also

acknowledges that the pandemic is not over and the community may experience another surge in COVID-19 cases – evidenced by communities across the country. As such, the recommendation is to allocate half of the second allotment in the amount of approximately \$11.1 million for these purposes.

*FY 22-23 Budget Funding: - \$4.5 million*

- With the adoption of the FY 22-23 Operating budget, the City estimated an \$8.1 million General Fund shortfall needed to balance the budget. Proposed reductions and increases in department revenues were in the amount of \$3.69 million and the remaining amount will be used from American Rescue Plan.

*911 Dispatch Services- \$1 million*

- The COVID-19 pandemic challenged services that are made available to the community, and further exacerbated existing gaps in service. In the area of dispatch, the City is currently exploring methods to improve services and this allocation will fund the necessary infrastructure to enhance dispatch services, and the overall response from public safety personnel.

*Downtown Quiet Zone - \$1 million*

- The community and Council expressed an interest in investing funds to convert the downtown into a quiet zone alongside several private sector partners to help spur economic and housing development in downtown.

*Park Improvements and Forestry Services - \$2 million*

- The community and Council noted that the parks and forestry services across the community require improvements. Staff will be returning to Council to identify the park improvements required by level of priority.

*Homelessness: Downtown Streets Team - \$1.8 million*

- A key priority identified was the effort to address homelessness. The City has created a comprehensive strategy titled “Camp2Home” alongside the Downtown Streets Team which has helped dozens of previously homeless individuals secure housing and employment.

*Other Service Areas - \$1.5 million*

- The City is also recommending critical investments to improve the development of affordable housing, spur tourism and economic recovery, and address gaps in service with investments like the creation of a pilot multi-family bulky item pick up program.

WHEREAS, the approval of this item will provide relief to the General Fund through the allocation of approximately \$22.9 million toward Council and community priorities, and

WHEREAS, this item was previously considered by the Finance Committee on June 27, 2022 and was approved to be forwarded to Council for consideration.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the City's Pandemic Recovery Strategy, Modesto Forward, for the use of the second allocation of American Rescue Plan funds and authorizing the City Manager, or his designee, to carry out the necessary steps to implement the programs and funding allocations.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 12th day of July, 2022, by Councilmember Wright, who moved its adoption, which motion being duly seconded by Councilmember Ricci, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Escutia-Braaton, Kenoyer, Madrigal, Ricci, Wright, Mayor Zwahlen

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST:   
DIANE NAYARES-PEREZ, CMC,  
City Clerk

(SEAL)

APPROVED AS TO FORM:

BY:   
JOSE M. SANCHEZ, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2022-328**

**RESOLUTION ACCEPTING AN UPDATE ON THE 2021 STANISLAUS  
REGIONAL STRATEGIC PLAN TO ADDRESS HOMELESSNESS AND  
APPROVING THE DIRECTION OF THE IMPLEMENTATION PLAN**

WHEREAS, the City of Modesto, alongside the County of Stanislaus, has worked tirelessly to address the challenge of homelessness, and

WHEREAS, since the Ninth Circuit Federal Court ruling on *Martin v. City of Boise*, the City embarked on various initiatives to address the need for shelter beds and programs to support individuals experiencing homelessness with their path to self-sufficiency, and

WHEREAS, for example, the City launched Beard Brook Park, the Modesto Outdoor Emergency Shelter, Access Center Emergency Shelter, Kansas House, and continues to make housing opportunities available, and

WHEREAS, further, to align efforts and initiatives between all stakeholders involved in addressing homelessness the Stanislaus Homeless Alliance (SHA) and Stanislaus Community System of Care (CSOC) created a strategic plan workgroup that began meeting to discuss the creation of a communitywide plan to address homelessness. The result of this workgroup's efforts is the 2021 Stanislaus Regional Homeless Strategic Plan (plan) that includes regional initiatives and is intended align efforts from the public, private, and faith-based communities, and

WHEREAS, the plan captures information on the current state of homelessness, current community concerns, gaps in homeless resources and housing, barriers to effectively addressing homelessness, and priorities for homeless assistance funding, and

WHEREAS, this information was collected through an extensive feedback and information collection process where existing data, reports, and community feedback, received from a diverse group of stakeholders regarding gaps in homeless services and housing in the community, was obtained and reviewed, and

WHEREAS, broadly speaking, the community feedback collected demonstrated that the most significant issues identified by community members to addressing homelessness are a lack of mental health support, substance abuse, and the lack of permanent affordable housing in the county, and

WHEREAS, further, community data as well as previous community research and reports, support a lack of permanent housing availability and demonstrate that the cost of rent in the county has steadily risen over the last few years, outpacing wage growth and benefits to support the higher cost of living. Perhaps unsurprisingly, the number of people experiencing homelessness has also risen steadily over the last several years, in tandem, and

WHEREAS, further, the data analyzed for this plan showed racial disparities in populations experiencing homelessness in the community, with rates of homelessness among Black or African American residents being four times higher than the percentage of Black or African American residents in the general population of the county, and

WHEREAS, considering this data and feedback, the community has identified eight goals targeted to address homelessness and respond to gaps in services and housing and they include the following:

Goal 1: Increase availability of permanent housing for people experiencing homelessness, and

Goal 2: Increase access to and availability of mental health, substance abuse treatment, and other supportive services to increase housing stability and well-being in the community, and

Goal 3: Achieve equity in governance, outreach, provision of services, program participation, and outcomes while improving outreach, care, and culturally attuned services to vulnerable and historically underserved subpopulations, and

Goal 4: Increase coordination of services, access, and information to build capacity across the homeless system of care, and

Goal 5: Increase pathways to essential community services that support self-sufficiency, and

Goal 6: Increase participation of people with lived experience of homelessness in decision-making and feedback processes across the system of care, and

Goal 7: Strategically support homelessness prevention, diversion, and rapid resolution, and

Goal 8: Improve coordination of homeless programs to further public health and safety in support of community standards, and

WHEREAS, since the approval of the plan, a workgroup comprised of members from the SHA and the CSOC has met on a regular basis to develop an implementation plan and begin working on carrying out the initiatives outline in the plan, and

WHEREAS, the implementation plan has included the assignment of Ron Reid, Interim Animal Services Agency Director, to serve as incident command and implement the incident command structure for this plan, and

WHEREAS, since Ron's assignment, the workgroup has identified Goal 1: Housing, Goal 3: Equity, and Goal 6: Participation from people with Lived Experience as the key priorities that the group will aim to address and are the objectives for the incident command structure, and

WHEREAS, the initial steps have included presentations to each city council of the nine cities in Stanislaus County to provide an update on the selected priorities, and to assign individuals from the various communities in Stanislaus County to serve as a liaison for their community and help the workgroup achieve the priority goals that have been identified, and

WHEREAS, the next steps include: fully forming the workgroup, assigning individuals to the incident command structure, and eventually providing periodic status updates to the SHA, CSOC, and other respective governing bodies on the various initiatives, and

WHEREAS, there is no fiscal impact associated with the acceptance of this report, and the endorsement of the direction, and

WHEREAS, this item was considered by the Citizens Housing and Community Development Committee on June 9, 2022 and was approved to be forwarded to Council.

NOW, THEREFORE BE IT FRESOLVED by the Council of the City of Modesto that it hereby accepts an update on the 2021 Stanislaus Regional Strategic Plan to Address Homelessness and approves the direction of the implementation plan.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 12th day of July, 2022, by Councilmember Ricci, who moved its adoption, which motion being duly seconded by Councilmember Escutia-Braaton, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Escutia-Braaton, Kenoyer, Madrigal, Ricci, Wright, Mayor Zwahlen

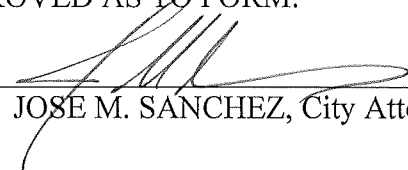
NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST:   
DIANE NAYARÉS-PÉREZ, CMC,  
City Clerk

(SEAL)

APPROVED AS TO FORM:

BY:   
JOSE M. SANCHEZ, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2022-329**

**RESOLUTION APPROVING A PILOT SAFE PARKING PROGRAM AT THE  
PARKING LOT AT 9<sup>TH</sup> AND B STREETS (APN: 106047003) FOR A MAXIMUM  
OF 25 VEHICLES, AND AUTHORIZING THE CITY MANAGER TO  
NEGOTIATE EXECUTE NECESSARY AGREEMENTS WITH THE COUNTY  
OF STANISLAUS, SALVATION ARMY, AND STANISLAUS FOODS FOR THE  
USE OF THE SITE FOR THIS PILOT SAFE PARKING PROGRAM**

WHEREAS, a significant percentage of individuals experiencing homelessness in Modesto are living in their vehicle, and

WHEREAS, residents and businesses have expressed concerns with the rising number of individuals and families living in their vehicle parked on private property and other areas across the community, and data shows that police personnel are frequently responding to these requests for service, and

WHEREAS, to help address these concerns, cities and counties across the country have developed parking programs for individuals experiencing homelessness in their vehicle to have a place to park safely each night aimed at helping address the homelessness crisis – commonly referred to as safe parking, and

WHEREAS, these programs have become an alternative to shelters, serving as a consistent location for individuals and families, to stay overnight, without the fear and stress of constant relocation or vehicle impoundment, and

WHEREAS, parking programs have been integrated across the State of California to support individuals experiencing homelessness with being connected to supportive services, shelter, and housing resources, and

WHEREAS, safe parking sites offer what is commonly referred to as a “stabilization point” – meaning that people do not have to spend resources on where they

will be sleeping each night, which means that they are more equipped and amenable to accepting services, permanent shelter, and employment opportunities, and

WHEREAS, safe parking programs vary significantly from overnight-only sites that serve operable, passenger vehicles, to 24/7 sites that serve both RVs and passenger vehicles, and

WHEREAS, safe parking sites offer what is commonly referred to as a “stabilization point” – meaning that people do not have to spend resources on where they will be sleeping each night, which means that they are more equipped and amenable to accepting services, permanent shelter, and employment opportunities, and

WHEREAS, safe parking programs vary significantly from overnight-only sites that serve operable, passenger vehicles, to 24/7 sites that serve both RVs and passenger vehicles, and

WHEREAS, however, there are common elements in the design for all of these programs, and they include the following: access to basic needs, sense of community, consistent codes of conduct, connection to services, and reduction of barriers for participation, and

WHEREAS, further, based on the growing need in Modesto, the City’s Safety and Communities Committee, on November 8, 2021, directed staff to vet locations to establish a safe parking pilot program, and

WHEREAS, the City approached Stanislaus Foods, Stanislaus County and the Salvation Army to explore the use of the parking lot located at the corner of 9<sup>th</sup> and B Streets, and

WHEREAS, based on this direction, City staff has vetted best practices in other communities and has reviewed various locations for the safe parking program to determine the most viable location to launch this program, and

WHEREAS, the proposed safe parking program will serve homeless individuals and families experiencing homelessness and using their vehicle as their primary residence, and

WHEREAS, following the pilot period, the City will pursue sustainable funding sources to ensure the program continues into the future and leverage data collected during the pilot period to make informed policy and funding recommendations, and

WHEREAS, the program will be in operation seven (7) days/week, for at least 12 hours each day for six months, and

WHEREAS, the location will have on-site security, potable water, portable restrooms, and dumpsters, and

WHEREAS, the pilot program will be available will launch with a capacity of 25 vehicles, and

WHEREAS, vehicles will need to be in working condition and RV's will not be allowed. Interested clients may request a space by visiting the Salvation Army. At such time, a staff member will complete an intake form on behalf of the interested client, this will require a current driver's license, current insurance, and current registration, and

WHEREAS, interested clients will be made aware of the requirements associated with staying at the site and will be required to sign acknowledging that they will comply with the requirements or face possible program termination, and

WHEREAS, following the review of the intake forms, participants will be required to complete a criminal background check, and

WHEREAS, following the review and approval of the required documents by Salvation Army personnel, staff will notify the client and will assign a parking space and badge, and

WHEREAS, if clients are not approved, Salvation Army personnel will make clients aware and advise them of the reasons for denial and will refer them to other available resources, and

WHEREAS, approved clients will be required to ensure that their parking badge is visibly placed on the dashboard of their vehicle at all times, and

WHEREAS, upon entry into the lot, the client will be required to ensure that they check-in with security and advise of the number of individuals in their vehicle, and

WHEREAS, all individuals in the vehicle must have previously completed a criminal background check; and clients are welcome to access the portable restrooms, dumpsters, and water during the program operational hours, and

WHEREAS, approved clients will be required to ensure that their parking badge is visibly placed on the dashboard of their vehicle at all times, and

WHEREAS, upon entry into the lot, the client will be required to ensure that they check-in with security and advise of the number of individuals in their vehicle. All individuals in the vehicle must have previously completed a criminal background check; and clients are welcome to access the portable restrooms, dumpsters, and water during the program operational hours, and

WHEREAS, the City is currently finalizing negotiations with the Salvation Army, Stanislaus Foods, and County of Stanislaus for the use of the site, and the parcel of interest is currently owned by a Stanislaus Foods related legal entity and is leased to the County of Stanislaus to serve as a parking lot for the Access Center Emergency Shelter (ACES), and

WHEREAS, the City has agreed to indemnify and hold harmless the County and SFP, and their related entities, for any loss, damage, claims, and costs of every kind arising out of the operation of the Safe Parking Program. The City intends to finalize negotiations with all parties within the next 30 to 60 days and begin operation of the program, and

WHEREAS, Memorandum of Understanding and any other necessary agreements are approved and executed by the Parties, the City will be responsible for overseeing the program and will be responsible for funding the operation throughout the term of the contract. The City will enter into a contract with the Salvation Army for the day-to-day administration of the program and to serve clients with case management, vital documents, social services, and housing placement, and

WHEREAS, the fiscal impact of the program for the 6-month period is expected to not exceed \$200,000 or approximately \$33,333 per month, and the cost will be covered with funds received through the American Rescue Plan and will not impact the General Fund, and

WHEREAS, this item was considered by the Citizens Housing and Community Development Committee on June 9, 2022 and was also considered by the Safety and

Communities Committee on June 13, 2022, and this item was approved to be forwarded to Council.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves a pilot Safe Parking Program at the parking lot at 9<sup>th</sup> and B Streets (APN: 106047003) for a maximum of 25 vehicles, and authorizes the City Manager to negotiate and execute necessary agreements with the County of Stanislaus, Salvation Army, and Stanislaus Foods for the use of the site for this pilot Safe Parking Program.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 12th day of July, 2022, by Councilmember Ricci, who moved its adoption, which motion being duly seconded by Councilmember Escutia-Braaton, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Escutia-Braaton, Kenoyer, Madrigal, Ricci, Wright, Mayor Zwahlen

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST:

  
DIANE NAYARÍS-PÉREZ, CMC,  
City Clerk

(SEAL)

APPROVED AS TO FORM:

BY:

  
JOSE M. SANCHEZ, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2022-330**

**RESOLUTION APPROVING THE APPOINTMENT OF OMAR SILVA AS THE  
CITIZEN’S HOUSING AND COMMUNITY DEVELOPMENT (CH&CDC)  
REPRESENTATIVE TO THE HOUSING REHABILITATION LOAN  
COMMITTEE (HRLC) WITH A TERM EXPIRATION OF JANUARY 1, 2024**

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 Citizen’s Housing and Community Development Committee (CH&CDC) appoints an individual from their membership to serve as the CH&CDC representative to the Housing Rehabilitation Loan Committee (HRLC); and

WHEREAS, on March 11, 2021, the CH&CDC recommended Omar Silva as its representative to the Housing Rehabilitation Loan Committee; and

WHEREAS, Mr. Silva is qualified and willing to be appointed as the CH&CDC representative to the HRLC until his term expires on January 1, 2024.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Modesto that Omar Silva is hereby appointed as the CH&CDC representative to the Housing Rehabilitation Loan Committee, with a term expiration of January 1, 2024.

BE IT FURTHER RESOLVED, that the City Clerk is hereby directed to transmit a copy of this resolution to the appointed member of the Housing Rehabilitation Loan Committee, and the Secretary thereof.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 9th day of August, 2022, by Councilmember Wright, who moved its adoption, which motion being duly seconded by Councilmember Madrigal, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Escutia-Braaton, Kenoyer, Madrigal, Ricci, Wright, Mayor Zwahlen

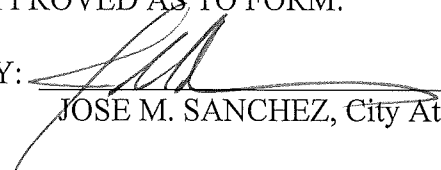
NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST:   
DIANE NAYARES-PEREZ, CMC,  
City Clerk

(SEAL)

APPROVED AS TO FORM:

BY:   
JOSE M. SANCHEZ, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2022-331**

**RESOLUTION REAPPOINTING MARY RAMIREZ TO THE CITY OF  
MODESTO HOUSING REHABILITATION LOAN COMMITTEE WITH A  
TERM EXPIRATION OF DECEMBER 31, 2025**

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 June 24, 2014, by City Council Resolution No. 2014-240, Mary Ramirez was appointed to the Housing Rehabilitation Loan Committee with a term ending of June 10, 2018, and

WHEREAS, on August 8, 2018, by City Council Resolution No. 2018-319, Mary was appointed to her second term with an ending date of December 31, 2021, and

WHEREAS, Mary Ramirez has been the appointed Stanislaus Regional Housing Authority's Representative (formerly the Housing Authority of Stanislaus County) to the Housing Rehabilitation Loan Committee since her first term began on June 24, 2014, and

WHEREAS, the HRLC's Bylaws, which were adopted by the City Council by Resolution No 2016-424, prohibit individuals from serving more than two consecutive terms. However, this limitation is not intended to apply Housing Authority's representative.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Modesto that Mary Ramirez is hereby appointed as the Stanislaus Regional Housing Authority's representative to the Housing Rehabilitation Loan Committee, with a term expiration of December 31, 2025.

BE IT FURTHER RESOLVED, that the City Clerk is hereby directed to transmit a copy of this resolution to the appointed member of the Housing Rehabilitation Loan Committee, and the Secretary thereof.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 9th day of August, 2022, by Councilmember Wright, who moved its adoption, which motion being duly seconded by Councilmember Ricci, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Escutia-Braaton, Kenoyer, Madrigal, Ricci, Wright, Mayor Zwahlen

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST:   
DIANE NAYARES PEREZ, CMC,  
City Clerk

(SEAL)

APPROVED AS TO FORM:

BY:   
JOSE M. SANCHEZ, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2022-332**

**RESOLUTION APPROVING THE APPOINTMENTS OF STACEY SOTTERO,  
LISA BATTISTA, MAYA RAMIREZ, GABRIELLA FIERRO, A’KIA WALKER,  
AND MAYRA MARTINEZ TO THE EQUITY COMMISSION WITH A TERM  
EXPIRATION OF AUGUST 1, 2026**

WHEREAS, the Affirmative Action Commission of the City of Modesto was established pursuant to the provisions of the Affirmative Action Program established by Modesto City Council Resolution No. 87-237 on April 7, 1987; and

WHEREAS, with the passage of Proposition 209, the City reviewed its employment policies, affirmative action policies and other relevant policies and procedures and amended them as necessary to comply with Proposition 209; and

WHEREAS, as part of the compliance effort, the Commission retitled from the Affirmative Action Commission to Equal Opportunity and Disability Commission by Resolution No. 98-134; and

WHEREAS, with the creation of the Diversity, Equity, and Inclusion Program which includes Equal Opportunity and Disability accessibility; and

WHEREAS, City staff retitled and repurposed the Equal Opportunity/Disability Commission to the Equity Commission and amended Article II Duties by Resolution No. 2022-054; and

WHEREAS, the Equity Commission is established to advise on matters of diversity, equity, and inclusion; and

WHEREAS, the Appointments Committee met on June 30, 2022, and recommended the appointments of Stacey Sottero, Lisa Battista, Maya Ramirez, Gabriella Fierro, A’kia Walker, and Mayra Martinez to the Equity Commission.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the appointments of Stacey Sottero, Lisa Battista, Maya Ramirez, Gabriella Fierro, A'kia Walker, and Mayra Martinez as commission members to the Equity Commission for a four-year term, with an expiration date of August 1, 2026.

BE IT FURTHER RESOLVED, that the City Clerk is hereby directed to transmit a copy of this resolution to the appointed members of the Equity Commission, and secretary thereof.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 9th day of August, 2022, by Councilmember Ricci, who moved its adoption, which motion being duly seconded by Councilmember Escutia-Braaton, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Escutia-Braaton, Kenoyer, Madrigal, Ricci, Wright, Mayor Zwahlen

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST:   
DIANE NAYARES-PEREZ, CMC,  
City Clerk

(SEAL)

APPROVED AS TO FORM:

BY:   
JOSE M. SANCHEZ, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2022-333**

**RESOLUTION CONTINUING TO AUTHORIZE REMOTE  
TELECONFERENCE MEETINGS OF THE CITY OF MODESTO PURSUANT  
TO ASSEMBLY BILL 361**

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

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

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

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

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

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

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

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

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

WHEREAS, on September 28, 2021, the City Council adopted Resolution No. 2021-370 authorizing remote teleconference meetings pursuant to AB361 (Government Code section 54953(e)); and

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

WHEREAS, the City Council has considered the circumstances of the Governor’s state of emergency proclamation pursuant to Government Code section 8625, which remains active; and

WHEREAS, on March 8, 2022, the County of Stanislaus Board of Supervisors terminated the Declaration of a Local Health Emergency that was issued on March 11, 2020; and

WHEREAS, the Stanislaus County Public Health Services Agency still strongly recommends community members to wear a mask while in “any indoor public space” along with other recommendations intended to promote social distancing measures; and

WHEREAS, the City Council, acting for itself and for the benefit of all of the City’s commissions, committees, and other bodies (collectively referred to as the “Legislative Bodies”), does hereby find that the Legislative Bodies shall continue to conduct their meetings without compliance with Government Code section 54953(b)(3), as authorized by Government Code section 54953(e), and that the Legislative Bodies shall continue to comply with the requirements to provide the public with access to the meetings as prescribed in Government Code section 54953(e)(2) as a consequence of the ongoing state of emergency and the continued social distancing measures required by local officials.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF MODESTO DOES HEREBY RESOLVE AS FOLLOWS:

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

Section 2. Consideration of State of Emergency. The City Council has considered the conditions of the state of emergency declared pursuant to Government Code section 8625, and determined that such emergency conditions continue to be present in the City.

Section 3. Continued Social Distancing Measures by State and Local Officials.

The City Council finds that the County of Stanislaus Health Officer's recommended measures to promote social distancing remain in effect.

Section 4. Remote Teleconference Meetings. The City Council finds that the conditions continue to exist pursuant to Government Code section 54953(e)(3) to allow Legislative Bodies to use teleconferencing to hold public meetings in accordance with Government Code section 54953(e)(2) to ensure members of the public have continued access to safely observe and participate in local government meetings.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 9th day of August, 2022, by Councilmember Kenoyer, who moved its adoption, which motion being duly seconded by Councilmember Wright, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Escutia-Braaton, Kenoyer, Madrigal, Ricci, Wright, Mayor Zwahlen

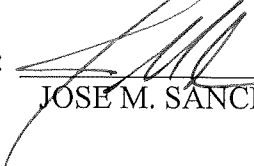
NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST:   
DIANE NAYARES-PEREZ, CMC,  
City Clerk

(SEAL)

APPROVED AS TO FORM:

BY:   
JOSE M. SANCHEZ, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2022-334**

**RESOLUTION APPROVING A FIRST AMENDMENT TO THE AGREEMENT WITH BRENDA DAVIS LAW GROUP TO PROVIDE CANNABIS EQUITY CONSULTING SERVICES FOR THE DEVELOPMENT OF A CANNABIS EQUITY PROGRAM, INCREASING THE AGREEMENT AMOUNT BY \$49,050 FROM \$40,000 TO A TOTAL OF \$89,050 AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE AMENDMENT**

WHEREAS, the members of the California Legislature have recognized the need for cannabis equity grant funding; and

WHEREAS, funding has been provided to the Governor's Office of Business and Economic Development (GO-Biz) to provide grant funds to local governments pursuant to AB 97 (Stats. 2019, Ch. 40); and

WHEREAS, the City Council of the City of Modesto supports the development of a local equity program; and

WHEREAS, City Council Resolution 2021-024 approved the submittal of an application for grant funding to GO-Biz to conduct a cannabis equity assessment and/or assist the development of a local equity program; and

WHEREAS, the City grant application submitted to GO-Biz was selected for grant funding in the amount of \$75,000; and

WHEREAS, to expend grant funds from GO-Biz to conduct a cannabis equity assessment and/or assist the development of a local equity program, on December 22, 2021, the City released a Request for Proposal (RFP) soliciting qualifications from qualified consulting firms and/or individuals, with demonstrated experience in providing cannabis equity consulting services; and

WHEREAS, the RFP solicitation process yielded one response, and after a thorough interdepartmental review of the proposals, the City selected the Brenda Davis Law Group because of their demonstrated experience in providing cannabis equity consulting services to conduct a cannabis equity assessment and develop a cannabis equity program; and

WHEREAS, under the City Manager's authority, the City entered into an agreement with the Brenda Davis Law Group on March 17, 2022 for a not to exceed amount of \$40,000, and prepare an equity assessment that consists of community outreach and consensus building amongst individuals and communities that may have been disproportionately impacted by the prior cannabis prohibition; and

WHEREAS, equity assessment data and information captured reveals a community interest in the development of an equity program; and

WHEREAS, based on these findings, the City recommends moving forward with an amendment to the agreement with the Brenda Davis Law Group to continue cannabis equity consulting services to develop a cannabis equity program; and

WHEREAS, the Municipal Code generally requires contracts over \$50,000 to comply with formal bidding procedures. This agreement is for professional services and is therefore exempt from the public bidding requirement pursuant to Modesto Municipal Code section 8-3.204(a); and

WHEREAS, to continue this agreement to develop a cannabis equity program, the City requires a First Amendment to the agreement increasing the agreement amount by \$49,050 from \$40,000 for a total of \$89,050.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Modesto that it hereby approves a First Amendment to an Agreement with Brenda Davis Law Group to provide cannabis equity consulting services for the development of a cannabis equity program, increasing the agreement amount by \$49,050 from \$40,000 to a total of \$89,050.

BE IT FURTHER RESOLVED, that the City Manager, or his designee, is hereby authorized to execute the amendment, in a form approved by the City Attorney.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 9th day of August, 2022, by Councilmember Kenoyer, who moved its adoption, which motion being duly seconded by Councilmember Wright, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Escutia-Braaton, Kenoyer, Madrigal, Ricci, Wright, Mayor Zwahlen

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST:



DIANE NAYARÉS-PÉREZ, CMC,  
City Clerk

(SEAL)

APPROVED AS TO FORM:

BY:



JOSE M. SANCHEZ, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2022-335**

**RESOLUTION APPROVING THE AWARD OF PROPOSAL AND AGREEMENTS TO PUBLIC FINANCIAL MANAGEMENT (PFM) FINANCIAL ADVISORS LLC, SAN FRANCISCO, CALIFORNIA, FOR MUNICIPAL ADVISORY SERVICES AND PFM SWAP ADVISORS LLC, SAN FRANCISCO, CALIFORNIA, FOR ANNUAL DERIVATIVE VALUATION REPORT FOR TWO (2) YEARS WITH THREE (3) ONE-YEAR EXTENSION OPTIONS AT A COMBINED ESTIMATED ANNUAL AMOUNT OF \$150,000 AND A TOTAL COMBINED AMOUNT NOT TO EXCEED \$750,000 OVER THE FIVE YEARS AND AUTHORIZING THE CITY MANAGER OR HIS DESIGNEE TO EXECUTE THE AGREEMENT**

WHEREAS, under Municipal Code Section 8-4.301, the City may issue bonds or refund bonds based on the financing needs for the City which will, in the long-term, benefit the City's debt financing portfolio strategy; and

WHEREAS, the City utilizes a municipal advisory services company to assist in monitoring the City's debt portfolio of over \$371 million in a fiduciary capacity with oversight by the Director of Finance; and

WHEREAS, this agreement will assist the City in identifying the best financing strategies to optimize the lowest financing cost based on the guidelines defined under the City's Debt Management Policy and State statutes; and

WHEREAS, on December 17, 2021, the Purchasing Division issued Request for Proposal (RFP) 2122-01 for municipal advisory services and annual derivative valuation report; and

WHEREAS, on February 1, 2022, in an effort to slow the spread of COVID 19, proposals were formally opened by the City Clerk and broadcast via Microsoft Livestream; and

WHEREAS, two (2) companies chose to respond with responsive and responsible proposals, none of which were local vendors; and

WHEREAS, proposals were based on an evaluation criterion of references, technical specifications, qualifications, deliverables and reports, staffing support, experience and cost; and

WHEREAS, Modesto Municipal Code Section 8-3.203 generally requires all purchases, which meet or exceed \$50,000 for material, equipment or contractual services to follow the formal bid procedures; and

WHEREAS, an award of proposal and agreement for municipal advisory services and annual derivative valuation report for the Finance Department use to PFM Financial Advisors LLC, San Francisco, California, and PFM Swap Advisors, LLC, San Francisco, California conforms to the Modesto Municipal Code because the City complied with the formal bid procedures and PFM Financial Advisors LLC, San Francisco, California and PFM Swap Advisors, LLC, San Francisco, California was the highest scored proposal based on the evaluation criteria.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the Award of Proposal and Agreements to Public Financial Management (PFM) Financial Advisors LLC, San Francisco, California, for Municipal Advisory Services and PFM Swap Advisors LLC, San Francisco, California, for Annual Derivative Valuation Report for two (2) years with three (3) one-year extension options at a combined estimated annual amount of \$150,000 and a total combined amount not to exceed \$750,000 over the five years.

BE IT FURTHER RESOLVED, that the City Manager, or his designee, is hereby authorized to execute the agreement, in a form approved by the City Attorney.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 9th day of August, 2022, by Councilmember Kenoyer, who moved its adoption, which motion being duly seconded by Councilmember Wright, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Escutia-Braaton, Kenoyer, Madrigal, Ricci, Wright, Mayor Zwahlen

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST:



DIANE NAYARES-PEREZ, CMC,  
City Clerk

(SEAL)

APPROVED AS TO FORM:

BY:



JOSE M. SANCHEZ, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2022-336**

**RESOLUTION APPROVING A SECOND CELL TOWER LEASE AMENDMENT  
TO THE SITE LEASE AGREEMENT WITH NEW CINGULAR WIRELESS PCS,  
LLC, EXTENDING THE MAXIMUM TERM OF THE AGREEMENT  
THROUGH AUGUST 31, 2047 AND AUTHORIZING THE CITY MANAGER,  
OR HIS DESIGNEE TO EXECUTE THE AGREEMENT**

WHEREAS, the City of Modesto partners with various cellular service providers by leasing city property for cell towers; and

WHEREAS, these partnerships are a benefit to the residents of the City of Modesto by improving cellular service coverage throughout Modesto, improving coverage for the FCC mandated E911 Services; and

WHEREAS, on August 27, 2002, the City entered a 5-year lease agreement with New Cingular PCS, LLC, formally AT&T Wireless Services of California, LLC, for a lease on a portion of the existing water tower located near 10th and D Streets for use as a cell tower; and

WHEREAS, site lease agreement had an initial term that expired on August 31, 2007, and was renewed in August 2007 for an additional term of five years, which ended on August 31, 2012; and

WHEREAS, on September 28, 2010, by Resolution No. 2010-418, the agreement was amended to provide for two (2), five-year extensions, ending on August 31, 2022; and

WHEREAS, New Cingular notified the City of their interest in amending the existing lease agreement to provide long-term site security; and

WHEREAS, the two parties have reach agreement on terms for an amendment, extending the lease agreement; and

WHEREAS, the amendment includes the following terms; and

- 1) Term extension: Five (5) years with up to four additional five (5) year renewal terms which would extend the final contract expiration term until August 31, 2047.
- 2) Effective September 1, 2027, the rent will increase at a rate of 3% each year thereafter.

WHEREAS, the second amendment was considered by the Finance Committee on Monday, May 23, 2022, and was approved to be forwarded to Council for consideration.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves a second cell tower lease amendment with New Cingular Wireless PCS, LLC, extending the maximum term of the agreement through August 31, 2047.

BE IT FURTHER RESOLVED, that the City Manager, or his designee, is hereby authorized to execute the agreement, in a form approved by the City Attorney.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 9th day of August, 2022, by Councilmember Kenoyer, who moved its adoption, which motion being duly seconded by Councilmember Wright, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Escutia-Braaton, Kenoyer, Madrigal, Ricci, Wright, Mayor Zwahlen

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST:   
DIANE NAYARES-PEREZ, CMC,  
City Clerk

(SEAL)

APPROVED AS TO FORM:

BY:   
JOSE M. SANCHEZ, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2022-337**

**RESOLUTION APPROVING THE INITIAL STUDY/MITIGATED NEGATIVE DECLARATION FOR THE RIVERDALE PARK TRACT COMMUNITY SERVICES DISTRICT WATER SYSTEM CONSOLIDATION PROJECT IN ACCORDANCE WITH THE CALIFORNIA ENVIRONMENTAL QUALITY ACT AND MAKING CERTAIN FINDINGS CONCERNING THE ENVIRONMENTAL IMPACTS AND MITIGATION MEASURES, APPROVING A MITIGATION MONITORING AND REPORTING PROGRAM AND DIRECTING STAFF TO FILE A NOTICE OF DETERMINATION**

WHEREAS, the City conducted analyses in 2018 to determine availability of City water supply and required water system improvements necessary to serve Modesto water supply to the Riverdale Community, and

WHEREAS, the State funded the design effort to develop plans to improve the Riverdale Water System and abandon the groundwater well, and

WHEREAS, by Resolution 2021-079, the City Council approved a Water System Consolidation Agreement with the District outlining certain conditions and the provision for State funds to pay for all consolidation costs, and

WHEREAS, in 2021, the State funded the required California Environmental Quality Act effort consisting of an Initial Study/Mitigated Negative Declaration (IS/MND) for the Riverdale Water System Consolidation Project, and

WHEREAS, the Draft IS/MND was distributed to the public for review and comment from January 31, 2022 to March 2, 2022, and

WHEREAS, comments to the Draft IS/MND were received, written responses to comments were prepared, and the Mitigation Monitoring and Reporting Plan (MMRP) was developed.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Initial Study/Mitigated Negative Declaration reflects the City's independent judgment and analysis, that the document has been completed in compliance with the requirements of the California Environmental Quality Act and, on the basis of the whole record, there is no substantial evidence that the project will have a significant effect on the environment.

BE IT FURTHER RESOLVED by the Council of the City of Modesto that it hereby approves the Initial Study/Mitigated Negative Declaration for the Riverdale Park Tract Community Services District Water System Consolidation Project, a copy of which is on file in the City of Modesto Utilities Department, and making certain findings concerning the environmental impacts and mitigation measures, and approving a Mitigation Monitoring and Reporting Program, a copy of which is on file in the City of Modesto Utilities Department.

BE IT FURTHER RESOLVED that the Director of Utilities, or his designee, is directed to file a Notice of Determination of this action.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 9th day of August, 2022, by Councilmember Kenoyer, who moved its adoption, which motion being duly seconded by Councilmember Wright, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Escutia-Braaton, Kenoyer, Madrigal, Ricci, Wright, Mayor Zwahlen

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST:   
DIANE NAYARES-PIREZ, CMC,  
City Clerk

(SEAL)

APPROVED AS TO FORM:

BY:   
JOSE M. SANCHEZ, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2022-338**

**RESOLUTION ACCEPTING THE SCENIC DRIVE PAVEMENT  
REHABILITATION PHASE 1 PROJECT AS COMPLETE, AUTHORIZING ALL  
NECESSARY STEPS TO FILE WITH THE COUNTY RECORDER,  
RELEASING SECURITIES, AND RELEASING PAYMENTS TOTALING  
\$1,248,560 TO GEORGE REED, INC., CA**

WHEREAS, in November of 2016, Stanislaus County voters approved a county-wide, 25-year, half-cent sales tax increase known as Measure L, and

WHEREAS, on October 4, 2016, Council approved Ordinance No. 3656-C.S. adding Chapter 10 to Title 8 of the Modesto Municipal Code to establish a Citizens' Transportation Sales Tax Commission (Citizens' Commission) consisting of eleven members appointed by the Council, and

WHEREAS, on December 12, 2017 by Resolution 2017-505, Council approved a Measure L Master Funding Agreement between the Stanislaus Council of Governments and the City of Modesto, and

WHEREAS, the City's estimated annual share of Measure L local funds is approximately \$8.9 million, allocated to three categories: \$6.87 million annually for Local Streets and Roads, which is to be used exclusively for repair and maintenance of City streets; \$1.37 million annually for Traffic Management, which would be used to upgrade intersections, widen roads, signalize intersections, install traffic calming devices, etc.; and \$687,000 annually for Bike and Pedestrian improvements, which is to be used for local connectivity between communities, local schools, trails and recreational facilities, and

WHEREAS, on February 7, 2019, the Citizens' Transportation Sales Tax Oversight Commission approved a list of projects for Fiscal Year 2019-2020, which

included the Scenic Drive Pavement Rehabilitation Project Phase I (Project), and

WHEREAS, this Project was included in the Fiscal Year 2019-2020 Capital Improvement Program (CIP) which was presented to the Finance Committee at workshops held on April 29, April 30, and May 2, 2019 and at a joint Planning Commission/Finance Committee meeting held on May 20, 2019. The CIP projects and budget were approved by City Council on June 25, 2019 by Resolution No. 2019-304, and

WHEREAS, project improvements include roadway resurfacing and/or reconstruction, new signage and striping, pedestrian crossing improvements, and Americans with Disabilities Act (ADA) ramp upgrades, and

WHEREAS, the project was advertised for bids on February 23, 2021. Bids were publicly opened on March 30, 2021. pursuant to Modesto Municipal Code section 8-3.403 and City Charter Section 1307. Four bids were received and George Reed, Inc. of Modesto, CA was the apparent low bidder, and

WHEREAS, on April 27, 2021, by Resolution 2021-149, Council awarded a contract to George Reed, Inc., of Modesto, CA, for the construction of the Scenic Drive Pavement Rehabilitation Phase I project in the amount of \$1,173,458, and

WHEREAS, the contractor received the Notice to Proceed with a first working day of June 28, 2021. All contract work was completed by January 11, 2022, and

WHEREAS, the total project costs were \$1,635,561 which included design, construction, and construction administration costs. The total project amount originally budgeted was \$1,739,500 which included \$1,298,803 for the construction contract and contingency with George Reed, Inc., of Modesto, CA., and

WHEREAS, the City's "Change Order Approval Policy" enacted by Council Resolution No. 94-443 on July 19, 1994, and updated by Resolution No. 2019-326 on July 9, 2019, states that a contract of at least \$1,000,000 but less than \$10,000,000 allows Directors Authority not to exceed eight percent (8%) of the contract amount, and

WHEREAS, the approved contingency amount for the project was \$117,345, and

WHEREAS, there were six change orders on this project with an overall increase of \$75,102, and

WHEREAS, by accepting this project as complete, the City officially accepts the improvements made and authorizes the Notice of Completion to be filed.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Scenic Drive Pavement Rehabilitation Phase 1 Project as complete, authorizing all necessary steps to file with the county recorder, releasing securities, and releasing payments totaling \$1,248,560 to George Reed, Inc., CA.

BE IT FURTHER RESOLVED, that the City Clerk is authorized to complete all necessary steps to file the appropriate notices and documents with the County Recorder, release securities, and authorize payments totaling \$1,248,560.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 9th day of August, 2022, by Councilmember Kenoyer, who moved its adoption, which motion being duly seconded by Councilmember Wright, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Escutia-Braaton, Kenoyer, Madrigal, Ricci, Wright, Mayor Zwahlen

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST.   
DIANE NAYARÉS-PÉREZ, CMC,  
City Clerk

(SEAL)

APPROVED AS TO FORM:

BY:   
JOSE M. SANCHEZ, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2022-339**

**RESOLUTION APPROVING THE FIRST AMENDMENT WITH GROVER LANDSCAPE SERVICES, INC., MODESTO, CA FOR THE FURNISHING OF LANDSCAPE MAINTENANCE, WEED ABATEMENT, TRASH REMOVAL AND RODENT CONTROL SERVICES, AND INCREASING THE ANNUAL AMOUNT BY \$15,000 FROM \$155,000, TO A NEW ESTIMATED ANNUAL AMOUNT OF \$170,000 FOR YEAR 3 AND INCLUDING A 10% CPI INCREASE FOR YEARS 4 AND 5 FOR A NEW TOTAL AMOUNT NOT TO EXCEED \$872,700 OVER FIVE YEARS, AND AUTHORIZING THE CITY MANAGER OR HIS DESIGNEE TO EXECUTE THE AMENDMENT**

WHEREAS, the Utilities Department, Wastewater Division requires landscape maintenance, weed abatement, trash removal and rodent control services for its storm basins, lift stations, and Utility easements, and

WHEREAS, these properties require consistent upkeep, in order to mitigate flood danger and avoid costly damage, and

WHEREAS, on August 07, 2019, by Resolution 2019-335, Council approved the award of bid to Grover Landscape Services, Inc., Modesto, CA, for a two-year agreement with three one-year extension options, for an estimated annual cost of \$155,000 and a total cost not to exceed \$853,000 over five (5) years, and

WHEREAS, on June 30, 2021, Grover requested a 3% CPI increase during the Year 3 Extension of Agreement 165801. The City determined this request to be reasonable and accepted the increase, and

WHEREAS, the City of Modesto, Utilities Department, Wastewater Division, currently holds an agreement with Grover Landscape Services, Inc. for landscape maintenance, weed abatement, trash removal and rodent control throughout the City's storm basins, lift stations, and Utility easements, and

WHEREAS, due to the rising cost of fuel and supplies, Grover has recently requested a CPI increase of 8.5% to go into effect with the Year 4 Extension of Agreement 165801, and

WHEREAS, during the term of this agreement it has been determined that the initial requested amount is not sufficient and the cost of services required to continue maintenance of the storm basins, lift stations, and Utility easements will exceed the previously approved amount.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the first amendment with Grover Landscape Services, Inc., Modesto, CA for the Furnishing of Landscape Maintenance, Weed Abatement, Trash Removal and Rodent Control Services, and increasing the annual amount by \$15,000 from \$155,000, to a new estimated annual amount of \$170,000 for Year 3 and including a 10% CPI increase for Years 4 and 5 for a new total amount not to exceed \$872,700 over five years.

BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to execute the amendment, in a form approved by the City Attorney.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 9th day of August, 2022, by Councilmember Kenoyer, who moved its adoption, which motion being duly seconded by Councilmember Wright, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Escutia-Braaton, Kenoyer, Madrigal, Ricci, Wright, Mayor Zwahlen

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST:   
DIANE NAYARÉS-PÉREZ, CMC,  
City Clerk

(SEAL)

APPROVED AS TO FORM:

BY:   
JOSE M. SANCHEZ, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2022-340**

**RESOLUTION APPROVING A MEMORANDUM OF UNDERSTANDING WITH THE DOWNTOWN STREETS TEAM (DST) PROGRAM IN COLLABORATION WITH THE COUNTY OF STANISLAUS COMMUNITY SERVICES AGENCY, AND APPROVING AN ANNUAL CONTRIBUTION IN AN AMOUNT NOT TO EXCEED \$700,000, FOR A TOTAL AMOUNT OF \$2,100,000 THROUGHOUT THE THREE (3) YEAR TERM, TO ASSIST THE CITY OF MODESTO IN ADDRESSING HOMELESSNESS, AND AUTHORIZING THE CITY MANAGER OR HIS DESIGNEE TO EXECUTE THE AGREEMENT**

WHEREAS, on December 11, 2018, by Resolution 2018-565, a Memorandum of Understanding (MOU) was entered into by the City of Modesto, County of Stanislaus, Stanislaus Community Foundation, and the United Way to bring the Downtown Streets Team program to Stanislaus County, and

WHEREAS, the DST organization has been integral role in supporting individuals experiencing homelessness by supporting members in the following areas: securing employment, increasing engagement in mental health treatment, removing barriers to housing and employment, and assisting with vital documents, and

WHEREAS, the initial multi-partner Memorandum of Understanding expired on December 11, 2021, and

WHEREAS, the County of Stanislaus Community Services Agency has agreed to serve as a funding partner for the continued implementation of the DST program, and

WHEREAS, as the scope of work will remain consistent but will expand the team size from a standing team of 25 to 50 individuals to help meet the consistent demand from the homeless community, and

WHEREAS, the team expansion will allow DST to further their reach and perform additional work throughout the community, and

WHEREAS, DST has committed to fundraise up to 40% of their total budget to support ongoing operations of the program beyond this 3-year term, and

WHEREAS, this item was considered by the Citizens Housing and Community Development Committee on July 14, 2022 and was approved to be forwarded to Council, and

WHEREAS, the City's share in the cost of the agreement shall not exceed \$700,000 annually and \$2,100,000 throughout the 3-year agreement.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby accepts a Memorandum of Understanding with the Downtown Streets Team (DST) program in collaboration with the County of Stanislaus Community Services Agency, and approving an annual contribution in an amount not to exceed \$700,000, for a total amount of \$2,100,000 throughout the three (3) year term, to assist the City of Modesto in addressing homelessness.

BE IT FURTHER RESOLVED that the City Manager, or his designee, is authorized to execute the Memorandum of Understanding, in a form approved by the City Attorney.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 9th day of August, 2022, by Councilmember Wright, who moved its adoption, which motion being duly seconded by Councilmember Ricci, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Escutia-Braaton, Kenoyer, Madrigal, Ricci, Wright, Mayor Zwahlen

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST:   
DIANE NAYARES-PIREZ, CMC,  
City Clerk

(SEAL)

APPROVED AS TO FORM:

BY:   
JOSE M. SANCHEZ, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2022-341**

**RESOLUTION AMENDING THE FISCAL YEAR 2022-2023 MULTI-YEAR FUND BUDGET TO ESTABLISH APPLICABLE REVENUE, EXPENSE AND TRANSFER BUDGETS FOR THE DOWNTOWN STREETS TEAM MEMORANDUM OF UNDERSTANDING TO BE FUNDED WITH AMERICAN RESCUE PLAN ACT (ARPA) FUNDS AND COMMUNITY DEVELOPMENT BLOCK GRANT (CDBG) FUNDS AND LITTER ABATEMENT FUNDS AND AUTHORIZING THE CITY MANAGER OR HIS DESIGNEE, TO TAKE THE NECESSARY STEPS TO IMPLEMENT THE PROVISIONS OF THIS RESOLUTION**

WHEREAS, on March 11, 2011 President Biden signed the American Rescue Plan (ARPA) in law, and

WHEREAS, ARPA will appropriate the City of Modesto with funds to address the continued impact of the COVID-19 pandemic on the economy, public health, State and local governments, individuals, and businesses, and

WHEREAS, the City of Modesto is an entitlement community under the U.S. Department of Housing and Urban Development (HUD) Community Development Block Grant (CDBG) program within the Office of Community Planning and Development (CPD), and

WHEREAS, as an entitlement community, the City annually receives entitlement funds from the Community Development Block Grant program, and

WHEREAS, if approved the fiscal year 2022-2023 Multi-Year budget must be amended, and

WHEREAS, the project(s) will be funded with \$1,800,000 in American Rescue Plan Act (ARPA) funds and \$150,000 in Community Development Block Grant (CDBG) funds and \$150,000 in Litter Abatement Funds for the 3-year agreement, and

WHEREAS, the ARPA funds will be in the amount of \$600,000 annually, and

WHEREAS, the CDBG funds will be in the amount of \$50,000 annually, and  
WHEREAS, the Litter Abatement funds will be in the amount of \$50,000 annually.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby amends the fiscal year 2022-2023 multi-year fund budget to establish applicable revenue, expense and transfer budgets for the Downtown Streets Team program to be funded with ARPA funds and CDBG Grant funds and Litter Abatement Funds.

BE IT FURTHER RESOLVED that the City Manager or his designee is 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 August, 2022, by Councilmember Wright, who moved its adoption, which motion being duly seconded by Councilmember Ricci, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Escutia-Braaton, Kenoyer, Madrigal, Ricci,  
Wright, Mayor Zwahlen

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST:

  
DIANE NAYARÉS-PÉREZ, CMC,  
City Clerk

(SEAL)

APPROVED AS TO FORM:

BY:

  
JOSE M. SANCHEZ, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2022-342**

**RESOLUTION FINDING THAT THE REZONES FROM C-M AND R-1 TO P-D(615) FOR PROPERTY LOCATED AT 1601 MCHENRY AVENUE, 1625 MCHENRY AVENUE, AND THE PROPERTY TO THE REAR OF 1625 MCHENRY AVENUE, AND FROM C-M TO C-2 FOR THE PROPERTY LOCATED AT 1707 MCHENRY AVENUE, ARE WITHIN THE SCOPE OF THE MODESTO URBAN AREA GENERAL PLAN MASTER ENVIRONMENTAL IMPACT REPORT (SCH NO. 2014042081)**

WHEREAS, on March 5, 2019, by Resolution 2019-108, City Council of the City of Modesto certified the Final Master Environmental Impact Report (“Master EIR”) (SCH No. 2014042081) for the Modesto Urban Area General Plan; and

WHEREAS, the City of Modesto has proposed a rezone from Commercial-Industrial (C-M) Zone and Low Density Residential (R-1) Zone to Planned Development Zone P-D(615) and a rezone from Commercial-Industrial (C-M) Zone to General Commercial (C-2) Zone, properties located at 1601, 1625 and 1707 McHenry Avenue; and

WHEREAS, pursuant to Section 21157.1 of the Public Resources Code, the City of Modesto’s Community & Economic Development Department prepared an Environmental Assessment Initial Study EA/C&ED 2022-16 (“Initial Study”) which analyzed whether the subsequent project may cause any significant effect on the environment that was not examined in the Master EIR and whether the subsequent project was described in the Master EIR as being within the scope of the report; and

WHEREAS, in accordance with CEQA guidelines beginning on July 12, 2022, the City caused to be published a 20-day notice of the City’s intent to make a finding that the subsequent project conforms with the Master EIR; and

WHEREAS, said matter was considered by the City Council at a duly noticed public hearing which was held on June 20, 2022, at 5:30 p.m., in the Tenth Street Place Chambers located at 1010 Tenth Street, Modesto, California.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Council has reviewed and considered the Initial Study prepared for the proposed rezone from Commercial-Industrial (C-M) Zone and Low Density Residential (R-1) Zone to Planned Development Zone P-D(615) and the proposed rezone from Commercial-Industrial (C-M) Zone to General Commercial (C-2) Zone, properties located at 1601, 1625 and 1707 McHenry Avenue, a copy of which is **attached** hereto as **Exhibit “A”**, and incorporated herein by reference, and based on substantial evidence in the Initial Study makes the following findings:

1. An Initial Study was prepared by the City of Modesto that analyzed whether the subsequent project may cause any significant effect on the environment that was not examined in the Master EIR and whether the subsequent project was described in the Master EIR as being within the scope of the report.
2. The subsequent project will have no additional significant effect on the environment, as defined in subdivision (d) of Section 21158 of the Public Resources Code, that was not identified in the Master EIR.
3. No new or additional mitigation measures or alternatives are required.
4. The subsequent project is within the scope of the project covered by the Master EIR.
5. All applicable policies, regulations, and mitigation measures identified in the Master EIR have been applied to the subsequent project or otherwise made conditions of approval of the subsequent project.

BE IT FURTHER RESOLVED by the Council of the City of Modesto that the Community & Economic Development Director is hereby authorized and directed to file

a notice of approval or determination within five (5) business days with the Stanislaus County Clerk pursuant to Section 21152 of the Public Resources Code.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 9th day of August, 2022, by Councilmember Kenoyer, who moved its adoption, which motion being duly seconded by Councilmember Escutia-Braaton, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Escutia-Braaton, Kenoyer, Madrigal, Ricci, Wright, Mayor Zwahlen

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST:   
DIANE NAYARES-PÉREZ, CMC,  
City Clerk

(SEAL)

APPROVED AS TO FORM:

BY:   
JOSE M. SANCHEZ, City Attorney

**EXHIBIT A**

Initial Study

EA/C&ED 2022-16

# **City of Modesto**

## **Finding of Conformance with the Urban Area General Plan Master EIR (SCH No. 2014042081)**

### **Initial Study Environmental Checklist C&ED No. 2022-16**

**For the proposed:**

**RZN-22-001**

**Rezone from Commercial-Industrial (C-M) Zone and  
Low Density Residential (R-1) Zone to  
General Commercial (C-2) Zone and  
Planned Development Zone P-D(615)**

**1601-1707 McHenry Avenue**

**Prepared by:  
City of Modesto  
Community & Economic Development Department  
Planning Division**

**May 19, 2022**

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# **City of Modesto**

## **Master EIR Initial Study Environmental Checklist**

### **I. PURPOSE**

CEQA allows for the limited environmental review of subsequent projects under the City's Master Environmental Impact Report ("Master EIR"). This Initial Study Environmental Checklist ("Initial Study") is used in determining whether the proposed rezone is "within the scope" of the project analyzed in the Modesto Urban Area General Plan Master EIR (SCH# 2014042081) (Public Resources Code section 21157.1). When the Initial Study supports this conclusion, the City will issue a Finding of Conformance.

A subsequent project is "within the scope" of the Master EIR when:

1. it will have no additional significant effects on the environment that were not addressed as significant effects in the Master EIR; and,
2. no new or additional mitigation measures or alternatives are required.

"Additional significant effects" means a project-specific effect that was not addressed as a significant effect in the Master EIR. [Public Resources Code Section 21158(d)]

The determination must be based on substantial evidence in the record. "Substantial evidence" means facts, reasonable assumptions predicated upon facts, or expert opinion based on facts. It does not include speculation or unsubstantiated opinion. (CEQA Guidelines Section 15384)

### **II. PROJECT DESCRIPTION**

- A. Title: RZN-22-001—Rezone of 8.9 acres from C-M and R-1 Zones to C-2 and Planned Development Zone P-D(615)
- B. Address or Location: 1601-1707 McHenry Avenue
- C. Applicant: City of Modesto
- D. City Contact Person: Katharine Martin, Senior Planner

Project Manager: Katharine Martin, Senior Planner  
Department: Community and Economic Development Department, Planning Division  
Phone Number: 209-577-5267  
E-mail address: kamartin@modestogov.com

- E. Current General Plan Designation(s): Commercial (C)
- F. Current Zoning Classification(s): Commercial-Industrial (C-M)
- G. Surrounding Land Uses:
  - North: Highway Commercial (C-3) Zone and Low Density Residential (R-1) Zone, Safeway Grocery Store and Shopping Center
  - South: General Commercial (C-2) Zone, retail and professional office uses
  - East: General Commercial (C-2) Zone, McHenry Village Shopping Center

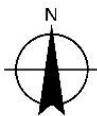
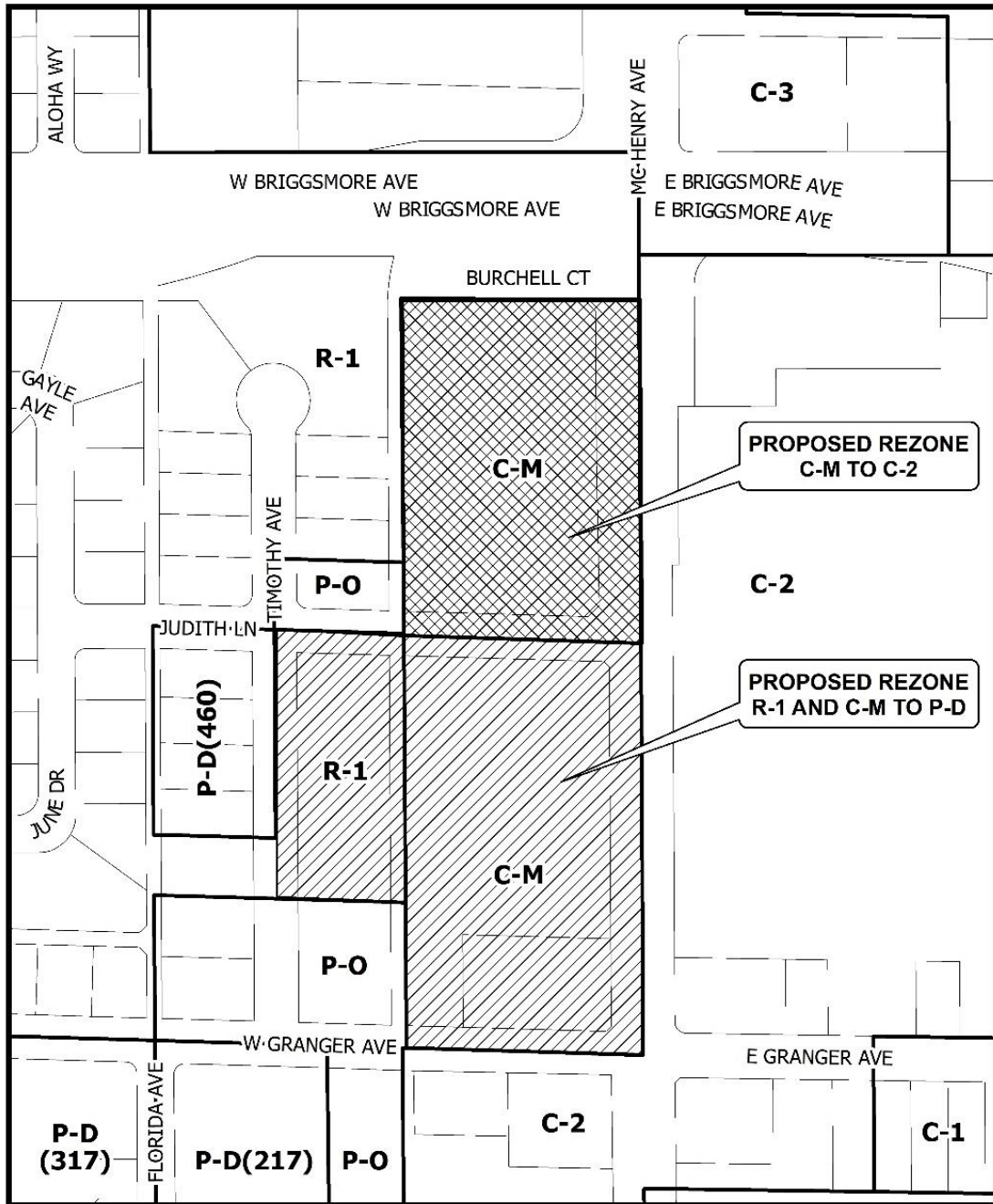
West: Low Density Residential (R-1) Zone, Professional Office (P-O) Zone and Planned Development Zone P-D(460) for professional offices; professional office and single-family residential uses

- H. Project Description, including the project type listed in Section II.C (Anticipated Future Projects) of the Master EIR (Attach additional maps/support materials as needed for complete record):

Rezone of 8.9 total acres on three properties from Commercial-Industrial (C-M) Zone and Low Density Residential (R-1) Zone to General Commercial (C-2) Zone allowing for general commercial uses, and Planned Development Zone P-D(615) allowing for limited general commercial uses, professional/medical offices and residential uses. The parcel on the north side of Judith Lane is proposed to be rezoned from C-M to C-2. The parcels on the south side of Judith Lane are proposed to be rezoned to Planned Development Zone P-D(615). Existing retail buildings and associated parking lots (including an existing parking lot within the R-1 Zone) are located within the rezone area.

The current zoning of C-M, which allows for commercial and industrial uses, is a legacy zone that was originally enacted in July of 1955 to allow for the operation of a then-existing milk bottling and processing plant located at 1707 McHenry Avenue. The plant has since closed and was demolished in Fall of 2003. The C-M Zone also included the properties to the south at 1601 and 1625 McHenry Avenue.

The proposed rezoning would align existing retail development with the underlying General Plan land use designation of Commercial (C), and would facilitate mixed-use development as outlined by the Major Transportation Corridors policies in Chapter III, Section 3 of the General Plan, which encourages mixed-use infill projects including high-quality multi-story residential development within the rezone area. The allowance of commercial uses would remain the same with the proposed rezoning. The difference with the proposed zones is that industrial uses would not be allowed in either zone, and some residential uses would be allowed. In general, the impacts would be less with residential uses than with industrial.



**AREA OF PROPOSED REZONE  
C-M to C-2  
R-1 and C-M to PLANNED DEVELOPMENT P-D**

I. Other Public Agencies Whose Approval is Required: None.

**III. FINDINGS / DETERMINATION (SELECT ONE ON THE BASIS OF THE ANALYSIS IN SECTION IV)**

1.  **Within the Scope** – The project is within the scope of the Master EIR and no new environmental document or Public Resources Code Section 21081 findings are required. All of the following statements are found to be true:

- A. The subsequent project will have no additional significant effect on the environment, as defined in subdivision (d) of Section 21158 of the Public Resources Code, that was not identified in the Master EIR;
- B. No new or additional mitigation measures or alternatives are required;
- C. The subsequent project is within the scope of the project covered by the Master EIR; and,
- D. All applicable policies, regulations, and/or mitigation measures identified in the Master EIR have been applied to the subsequent project or otherwise made conditions of approval of the subsequent project.

2.  **Mitigated Negative Declaration Required** – On the basis of the above determinations, the project is not within the scope of the Master EIR. A mitigated negative declaration will be prepared for the project. The following statements are all found to be true:

- A. The subsequent project is within the scope of the project covered by the Master EIR;
- B. All applicable policies, regulations, and mitigation measures identified in the Master EIR have been applied to the subsequent project or otherwise made conditions of approval of the subsequent project; and,
- C. The project will have one or more potential new significant effects on the environment that were not addressed as significant effects in the Master EIR. New or additional mitigation measures are being required of the project that will reduce the effects to a less than significant level.

3.  **Focused EIR Required** – On the basis of the above determinations, the project is not within the scope of the Master EIR. A Focused EIR will be prepared for the project. All of the following statements are found to be true:

- A. The subsequent project is within the scope of the project covered by the Master EIR;
- B. All applicable policies, regulations, and mitigation measures identified in the Master EIR have been applied to the subsequent project or otherwise made conditions of approval of the subsequent project; and,
- C. The project will have one or more new significant effects on the environment that were not addressed as significant effects in the Master EIR. New or additional mitigation measures or alternatives are required as a result.

\_\_\_\_\_  
Project Manager

\_\_\_\_\_  
Title

\_\_\_\_\_  
Date

#### 4. Within the Scope Analysis of this Document:

The Master EIR allows projects to be found within the scope of the MASTER EIR if certain criteria are met. If the following statements are found to be true for all 20 impact categories included in this Initial Study, then the proposed project is addressed by the Master EIR analysis and is within the scope of the Master EIR. Any "No" response must be discussed.

	YES	NO
(1) The lead agency for subsequent projects shall be the City of Modesto or a responsible agency identified in the Master EIR.	<input checked="" type="checkbox"/>	<input type="checkbox"/>
(2) City policies that reduce, avoid, or mitigate environmental effects will continue to be in effect and, therefore, would be applied to subsequent projects where appropriate. The policies are described in the list of policies in place as "mitigating policies" attached to the Initial Study template. Project impacts would be mitigated to a less-than-significant level using the Master EIR's mitigating policies only.	<input checked="" type="checkbox"/>	<input type="checkbox"/>
(3) Federal, State, regional, and Stanislaus County regulations do not change in a manner that is less restrictive on development than current law (i.e., would not offer the same level of protection assumed under the Master EIR).	<input checked="" type="checkbox"/>	<input type="checkbox"/>
(4) No specific information concerning the known or potential presence of significant resources is identified in future reports, or through formal or informal input received from responsible or trustee agencies or other qualified sources.	<input checked="" type="checkbox"/>	<input type="checkbox"/>
(5) The project will occur within the boundaries of the City's planning area as established in the Urban Area General Plan.	<input checked="" type="checkbox"/>	<input type="checkbox"/>
(6) Implementation of the project will comply with all appropriate mitigating policies contained and enumerated in the 2019 Urban Area General Plan Master EIR.	<input checked="" type="checkbox"/>	<input type="checkbox"/>

#### 5. Currency of the Master EIR Document

The Master EIR should be reviewed on a regular basis to determine its currency, and whether additional analysis / mitigation should be incorporated into the Master EIR via a Supplemental or Subsequent EIR (CEQA Section 21157.6). Staff has reviewed Sections 1 through 20 of this document in light of the criteria listed below to determine whether the Master EIR is current. The analyses contained within the Master EIR are current as long as the following circumstances have not changed. Any "no" response must be explained.

	YES	NO
(1) Certification of the Urban Area General Plan Master EIR occurred less than five (5) years prior to the filing of the application for this subsequent project.	<input checked="" type="checkbox"/>	<input type="checkbox"/>
(2) The proposed project is described in the Master EIR and its approval will not affect the adequacy of the Master EIR for any subsequent project because the City can make the following findings:	<input checked="" type="checkbox"/>	<input type="checkbox"/>
(a) No substantial changes have occurred with respect to the circumstances under which the Master EIR was certified;	<input checked="" type="checkbox"/>	<input type="checkbox"/>
(b) No new information, which was not known and could not have been known at the time the Master EIR was certified as complete, has become available; and,	<input checked="" type="checkbox"/>	<input type="checkbox"/>
(c) Policies that require site-specific mitigation, and avoidance or other mitigation of impacts as a prerequisite to future development, remain in full force and effect.	<input checked="" type="checkbox"/>	<input type="checkbox"/>

### Discussion:

- (1) The General Plan Master EIR was last certified on March 5, 2019. The analysis contained in the Master EIR is adequate for subsequent projects, as documented in the discussion below.
- (2) The project is consistent with the analysis contained in the Master EIR. This is documented in the discussion of the 20 individual evaluation topics within this initial study.
  - (2)(a) There have been no substantive changes to the Urban Area General Plan since the Master EIR was certified that would create additional significant environmental effects that were not analyzed by the Master EIR.
  - (2)(b) There has been no new information that would affect the adequacy of the analysis contained in the Master EIR.
  - (2)(c) All policies contained in the Master EIR that require site-specific mitigation or avoidance of impacts remain in effect and will be applied to the project as appropriate.

## **IV. ENVIRONMENTAL ANALYSIS**

This Initial Study, in accordance with Section 21157.1(b) of the Public Resources Code, discloses whether the proposed project may cause any project-specific significant effect(s) to the environment that was not examined in the Final Master EIR for the Urban Area General Plan, and whether new or additional mitigation measures or alternatives may be required as a result. The Initial Study thereby documents whether or not the project is "within the scope" of the Master EIR.

Pursuant to Public Resources Code Section 21157.1, no new environmental document or findings are necessary for projects that are determined to be within the scope of the Master EIR. Adoption of the findings specified in Section III.1, above, after completion of the Initial Study fulfills the City's obligation in that situation. All environmental effects cited reflect 2040 conditions resulting from the Urban Area General Plan, as identified in the Master EIR.

The environmental impact analysis in the Master EIR for the Urban Area General Plan is organized in twenty subject / topical areas. The following analysis is based on the impact analyses contained in Chapter V of the Master EIR. For ease of reference, the sections are numbered in the same order as the analyses in Chapter V.

# **1. TRAFFIC AND CIRCULATION**

## **a. Significant Effects Identified in the Master EIR**

The Master EIR discloses the following residual significant and unavoidable traffic and circulation impacts expected after application of mitigating policies.

### **Direct Impacts**

Effect: Increased automobile traffic will result in roadway segments (see Master EIR Table V-1-6, pages V-1-36 to V-1-39) operating at LOS D, Modesto's significance threshold for automobile traffic, or lower (LOS E or F).

Effect: The substantial increase in traffic relative to the existing load and capacity of the street system will cause, either individually or cumulatively, the violation of automobile service standards established by StanCOG's Congestion Management Plan for designated roads and highways.

Effect: A substantial increase in automobile vehicle miles traveled (see Master EIR Tables V-1-7 through V-1-10, pages V-1-44 through V-1-45).

### **Cumulative Impacts**

Effect: Potential for growth inducement or acceleration of development resulting from highway and local road projects.

Effect: Substantial increase in traffic in relation to the existing traffic load and capacity of the street system, including a violation, either individually or cumulatively, of an automobile LOS standard established by the Congestion Management Plan for designated roads and highways.

Effect: Increased demand for capacity-enhancing alterations to existing roads or automobile traffic reduction.

Other impact categories affected by Traffic and Circulation are addressed throughout this Initial Study (see also: Section 2, Air Quality and Greenhouse Gas Emissions; Section 3, Generation of Noise; Section 18, Energy; Section 19, Visual Resources; and, Section 20, Land Use and Planning).

## **b. Urban Area General Plan Mitigating Policies Applied to the Project**

Traffic and Circulation-related mitigating policies pertinent to this project are found on Master EIR pages V-1-7 through V-1-30. All mitigating policies appropriate to the project, including any new measures, will be incorporated into or made conditions of approval of this project and are listed in Section V, "Mitigating Policies Applied to Project."

### Discussion:

The appropriate mitigating policies to be applied to this project include none from the Master EIR. No new or additional mitigation measures or alternatives are required to reduce project impacts to a less-than-significant level.

## **c. Project-Specific Effects**

Section V-1.B of the Master EIR provides analysis of Traffic and Circulation impacts of development of the General Plan. The following is an analysis of whether the proposed project would result in any new, significant, project-specific effect(s) that were not disclosed in the Master EIR.

Significance Criteria: A subsequent development project will have a new significant effect on the environment if it would exceed the following thresholds / criteria:

	Potentially Significant Impact	Less Than Significant w/Mitigating Policies	Less Than Significant Impact	No Impact
<b>1. TRAFFIC AND CIRCULATION</b>				
1) The proposed project would conflict with an applicable plan, ordinance or policy (including those within the Urban Area General Plan) establishing measures of effectiveness for the performance of the circulation system, taking into account all modes of transportation including mass transit and non-motorized travel and relevant components of the circulation system including, but not limited to intersections, streets, highways and freeways, pedestrian and bicycle paths, and mass transit.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
2) The proposed project would conflict with an applicable congestion management program, including, but not limited to, level of service standards and travel demand measures, or other standards established by the county congestion management agency, for designated facilities.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
3) The proposed project would 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"/>
4) The proposed project would substantially increase hazards due to a design feature (e.g. sharp curves or dangerous intersections) or incompatible uses (e.g. farm equipment), or result in inadequate emergency access.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
5) The proposed project would conflict with adopted policies, plans, or programs regarding public transit, bicycle, or pedestrian facilities, or otherwise decrease the performance or safety of such facilities.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
6) The proposed project would result in projected Level of Service "D" or worse for non-exempt City of Modesto roadways, Caltrans facilities, and/or County of Stanislaus roadways.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

Discussion:

- (1) The proposed rezone will not conflict with any transportation policies or the existing circulation system surrounding the rezone area, including existing transit routes.
- (2) The proposed rezone will have no effect on the level of service standard established by the county congestion management.
- (3) The proposed rezone will have no effect on air traffic patterns. The nearest airport is the Modesto City-County Airport approximately three miles away to the southeast.
- (4) The proposed rezone will not increase circulation hazards due to design or incompatible uses, or result in inadequate emergency access. Modesto Fire Station No. 5 located at 200 W. Briggsmore Avenue between Briggsmore and Timothy Avenue, is located by the northwest corner of the rezone area, with direct access to the rezone area via Timothy Avenue and Judith Lane.
- (5) The proposed rezone will have no effect on alternative transportation policies.
- (6) The proposed rezone will have no effect on Level of Service.

## **2. AIR QUALITY AND GREENHOUSE GAS EMISSIONS**

### **a. Significant Effects Identified in the Master EIR**

The Master EIR discloses the following residual significant and unavoidable air quality impacts expected after application of mitigating policies.

#### **Direct Impacts**

Effect: Expected automobile traffic will result in increased operational emissions of reactive organic gases (ROG) and oxides of nitrogen (NO<sub>x</sub>), and increased carbon monoxide (CO) levels in the project area (see Master EIR Tables V-2-4 through V-2-6, pages V-2-40 through V-2-41).

Effect: Expected construction and development activities could result in increased emissions of particulate matter 10 microns or less (PM<sub>10</sub>) and 2.5 microns or less in diameter (PM<sub>2.5</sub>) (see Master EIR page V-2-31, "2. Significant Direct Impacts").

#### **Cumulative Impacts**

The Master EIR indicates the same impacts identified as direct impacts above will contribute to regional impacts on air quality for the criteria pollutants ROG, NO<sub>x</sub>, PM<sub>10</sub>, and PM<sub>2.5</sub>.

### **b. Urban Area General Plan Mitigating Policies Applied to the Project**

Air quality-related mitigating policies that are relevant to the proposed project are found on pages V-2-8 through V-2-29 of the Master EIR. All mitigating policies appropriate to the project will be incorporated into or made conditions of approval of this project and are listed in Section V, "Mitigating Policies Applied to Project."

Discussion:

The appropriate policies to be applied to this project include none from the Master EIR. No new or additional mitigation measures or alternatives are required to reduce project impacts to a less-than-significant level.

**c. Project-Specific Effects**

Section V-2.B of the Master EIR is the analysis of air quality impacts resulting from development of the Urban Area General Plan. The following is an analysis of whether the proposed project would result in a new, significant, project -specific effect not analyzed in the Master EIR.

Significance Criteria: Determination of project effects will be based on the following thresholds. The project-specific effects will be less than significant unless:

	Potentially Significant Impact	Less Than Significant w/Mitigating Policies	Less Than Significant Impact	No Impact
<b>2. AIR QUALITY AND GREENHOUSE GAS EMISSIONS</b>				
1) The proposed project would be inconsistent with the air quality and greenhouse gas emissions policies in the Urban Area General Plan.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
2) The proposed project would conflict with or obstruct implementation of the applicable air quality plan.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
3) The proposed project would violate any air quality standard or contribute substantially to existing or projected violation.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
4) The proposed project would result in a cumulatively considerable net increase of any criteria pollutant for which the project region is in non-attainment under 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"/>
5) The proposed project would expose sensitive receptors to substantial pollutant concentrations.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
6) The proposed project would create objectionable odors affecting a substantial number of people.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
7) The proposed project would generate greenhouse gas emissions, either directly or indirectly, that may have a significant impact on the environment.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
8) The proposed project would conflict with an applicable plan, policy, or regulation adopted for the	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

	Potentially Significant Impact	Less Than Significant w/Mitigating Policies	Less Than Significant Impact	No Impact
purpose of reducing the emission of greenhouse gases.				

Discussion:

- (1) The proposed rezone will have no effect on Urban Area General Plan air quality and greenhouse gas policies.
- (2) The proposed rezone will not conflict with any air quality plan.
- (3) The proposed rezone will not violate any air quality standard or contribute substantially to an existing or projected violation.
- (4) The proposed rezone will have no increase of any criteria pollutant effect on Urban Area General Plan air quality and greenhouse gas policies.
- (5) The proposed rezone will have no effect on sensitive receptors.
- (6) The proposed rezone will not result in the creation of objectionable odors.
- (7) The proposed rezone will not generate greenhouse gas emissions above what is assumed in the adopted Master EIR.
- (8) The proposed rezone will not conflict with a plan, policy or regulation adopted for the purpose of reducing the emission of greenhouse gasses.

**3. GENERATION OF NOISE AND VIBRATION**

**a. Significant Effects Identified in the Master EIR**

The Master EIR discloses the following residual significant and unavoidable noise and vibration impacts expected after application of mitigating policies.

**Direct Impacts**

Effect: Future automobile traffic noise levels and roadway construction and maintenance activities resulting from development consistent with the Urban Area General Plan will exceed the City’s noise thresholds at various locations, but particularly in areas adjacent to heavily traveled roadways (see Master EIR Table V-3-9, pages V-3-28 through V-3-31).

Effect: New noise-generating land uses could produce noise levels that would exceed the City’s noise thresholds of acceptability at sensitive receptors in the vicinity.

Effect: Construction noise would cause a temporary or periodic increase in noise exposure above ambient noise levels.

Effect: Demolition and construction activities may expose people to excessive vibration levels.

## Cumulative Impacts

Effect: Traffic from development in the City of Modesto would, when combined with traffic from new development in the County and other cities, contribute to a cumulative increase in roadside noise levels on major roads and highways throughout Stanislaus County.

### b. Urban Area General Plan Mitigating Policies Applied to the Project

Noise policies that are pertinent to the project being analyzed in this Initial Study are found on pages V-3-18 through V-3-24 of the Master EIR. All mitigating policies appropriate to the project will be incorporated into or made conditions of approval of this project and are listed in Section V, "Mitigating Policies Applied to Project."

Discussion:

The appropriate policies to be applied to this project include none from the Master EIR. No new or additional mitigation measures or alternatives are required to reduce project impacts to a less-than-significant level.

### c. Project-Specific Effects

Section V-3.B of the Master EIR discloses noise impacts resulting from development of the Urban Area General Plan. The following is an analysis of whether the proposed project would result in a new, significant, project -specific effect not analyzed in the Master EIR.

Significance Criteria: Determination of the proposed project’s effects are based on the following thresholds. Project-specific effects will be less than significant unless:

	Potentially Significant Impact	Less Than Significant w/Mitigating Policies	Less Than Significant Impact	No Impact
<b>3. NOISE AND VIBRATION</b>				
1) The proposed project is inconsistent with Urban Area General Plan noise and vibration policies and standards.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
2) The proposed project would generate excessive ground-borne noise and/or vibration levels.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
3) The proposed project would result in a permanent increase of 3 dBA where any other noise threshold or standard would be exceeded, and/or 5 dBA where noise levels would otherwise fall within acceptable limits, 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"/>
4) The proposed project would result in a substantial temporary or periodic increase in ambient noise levels existing without the project.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

	Potentially Significant Impact	Less Than Significant w/Mitigating Policies	Less Than Significant Impact	No Impact
5) For a project located within an airport land use plan, or where such a plan has not been adopted, within two (2) miles of a public airport or public use airport, the proposed project would result in exposure of 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"/>
6) For a project within the vicinity of a private airstrip, the proposed project would 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"/>
7) For new residential development within 200 feet of active rail lines, the proposed project would result in noise levels generated during train passbys that exceed 50 dBA L <sub>max</sub> inside bedrooms or 55 dBA L <sub>max</sub> inside other occupied areas.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

Discussion:

- (1) The proposed rezone will have no effect on Urban Area General Plan noise and vibration policies.
- (2) The proposed rezone will not generate excessive permanent noise or vibration levels. The rezone area is comprised of existing retail buildings, professional/medical offices and associated parking areas.
- (3) The proposed rezone would not generate a noticeable increase in ambient noise levels.
- (4) The proposed rezone would not generate a temporary or periodic increase in ambient noise levels.
- (5-6) The rezone area is not located near a public or private airstrip. The nearest airport is the Modesto City-County Airport located three miles away to the southeast.
- (7) The rezone area is not located within 200-feet of an active rail line. The nearest active rail line is the Union Pacific line 1.6-miles to the southwest.

**4. EFFECTS ON AGRICULTURAL LANDS**

**a. Significant Effects Identified in the Master EIR**

The Master EIR discloses the following residual significant and unavoidable impacts on agricultural lands expected after application of mitigating policies.

**Direct Impacts**

Effect: Development consistent with the Urban Area General Plan may convert up to approximately 10,500 acres of farmland in various categories in the Planned Urbanizing Area to urban uses.

Effect: Approximately 1,100 acres of urban development along a 350-foot wide 26-mile boundary between urban and agricultural uses could be affected by continued agricultural operations, including noise, dust, and chemical overspray or drift.

**Cumulative Impacts**

Effect: Growth within Modesto’s planning area would contribute considerably to the loss of agricultural land within Stanislaus County, accounting for the conversion of as much as approximately 10,500 acres of farmland in various categories in the Planned Urbanizing Area to 2040.

**b. Urban Area General Plan Mitigating Policies Pertinent to the Project**

Agricultural land-related mitigating policies pertinent to the proposed project are found on pages V-4-4 to and V-4-8 of the Master EIR. All mitigating policies appropriate to the project will be incorporated into or made conditions of approval of this project and are listed in Section V, “Mitigating Policies Applied to Project.”

Discussion:

The appropriate policies to be applied to this project include none from the Master EIR. No new or additional mitigation measures or alternatives are required to reduce project impacts to a less-than-significant level.

**c. Project-Specific Effects**

Section V-4.B of the Master EIR discloses the impacts resulting from the implementation of the Urban Area General Plan on agricultural lands. The following is an analysis of whether the proposed project would result in a new, significant, project-specific effect(s) not previously analyzed in the Master EIR.

Significance Criteria: Determination of project effects will be based on the following thresholds. The project-specific effects will be less than significant unless:

	Potentially Significant Impact	Less Than Significant w/Mitigating Policies	Less Than Significant Impact	No Impact
<b>4. EFFECTS ON AGRICULTURAL RESOURCES</b>				
1) The proposed project would be inconsistent with the Urban Area General Plan policies relating to agricultural resources.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
2) The proposed project would convert areas of Prime Farmland, Unique Farmland or Farmland of Statewide Importance to non-agricultural uses, impair the agricultural productivity of prime agricultural land, or result in substantial pesticide overspray, dust, or noise at urban uses.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
3) The proposed project would conflict with existing	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

	Potentially Significant Impact	Less Than Significant w/Mitigating Policies	Less Than Significant Impact	No Impact
zoning for agricultural use, or with a Williamson Act contract.				
4) The proposed project would conflict with existing zoning for, or cause rezoning of, forest land or timberland.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
5) The proposed project would result in the loss of forest land or conversion of forest land to non-forest use.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
6) The proposed project would involve other changes to the environment that could result in conversion of farmland or forest land.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

Discussion:

- (1) The proposed rezone will have no effect on Urban Area General Plan agricultural resources policies.
- (2) Farmland will not be converted as a result of the proposed rezone. The rezone site is developed with retail buildings and professional/medical offices and is substantially surrounded by urban development.
- (3) The proposed rezone will have no effect on any agricultural use or Williamson Act contract.
- (4-5) No forest land or timberland will be converted as a result of the proposed rezone. Excepting the urban forest of street trees, neighborhood and community parks, and urban landscaping, there is no forest land or timberland within the City’s incorporated area.
- (6) The proposed rezone will have no effect on farmland or forest land.

**5. INCREASED DEMAND FOR LONG-TERM WATER SUPPLIES**

**a. Significant Effects Identified in the Master EIR**

The Master EIR discloses the following residual significant and unavoidable impacts on long-term water supplies expected after application of mitigating policies.

**Direct Impacts**

Effect: Implementation of the Urban Area General Plan could substantially deplete groundwater supply or interfere with recharge.

Effect: Implementation of the Urban Area General Plan could necessitate construction of new water treatment facilities, or expansion of existing facilities, the construction of which could cause significant environmental effects.

Effect: Implementation of the Urban Area General Plan could necessitate expansion of existing water supply entitlements.

**Cumulative Impacts**

Effect: Groundwater withdrawals from both subbasins by the City, when combined with other users’ withdrawals, may result in overdrafting.

Effect: Cumulative impacts resulting from construction of new water treatment facilities, or expansion of existing facilities, could cause significant environmental effects.

**b. Urban Area General Plan Mitigating Policies Applied to the Project**

Water supply-related mitigating policies pertinent to the proposed project are found on pages V-5-11 through V-5-16 of the Master EIR. All mitigating policies appropriate to the project will be incorporated into or made conditions of approval of this project and are listed in Section V, “Mitigating Policies Applied to Project.”

Discussion:

The appropriate policies to be applied to this project include: none from the Master EIR. No new or additional mitigation measures or alternatives are required to reduce project impacts to a less-than-significant level.

**c. Project-Specific Effects**

Section V-5.B of the Master EIR discloses impacts on long-term water supplies resulting from implementation of the Urban Area General Plan. The following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not disclosed in the Master EIR.

Significance Criteria: Determination of project effects will be based on the following thresholds. The project-specific effects will be less than significant unless:

	Potentially Significant Impact	Less Than Significant w/Mitigating Policies	Less Than Significant Impact	No Impact
<b>5. EFFECTS RELATIVE TO INCREASED DEMAND FOR LONG TERM WATER SUPPLIES</b>				
1) The proposed project is inconsistent with the Urban Area General Plan policies relating to water supply.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
2) The proposed project would substantially deplete groundwater supply, interfere with groundwater recharge, result in water demand exceeds the capacity for recharge or that would contribute to overdraft of the groundwater basins.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
3) The proposed project would require or result in the construction of new water treatment facilities or expansion of existing facilities, the construction of	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

	Potentially Significant Impact	Less Than Significant w/Mitigating Policies	Less Than Significant Impact	No Impact
which could cause significant environmental effects.				
4) The proposed project would exceed existing water supply entitlements or require expansion of entitlements.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

Discussion:

- (1) The proposed rezone will have no effect on water supply policies.
- (2) The proposed rezone will have no effect on groundwater supply above what is assumed in the adopted Master EIR.
- (3-4) The proposed rezone will have no effect on water demand above what is assumed in the adopted Master EIR.

**6. INCREASED DEMAND FOR SANITARY SEWER SERVICES**

**a. Significant Effects Identified in the Master EIR**

The Master EIR discloses the following residual significant and unavoidable impacts on sanitary sewer services after application of mitigating policies.

**Direct Impacts**

Effect: Development resulting from implementation of the Urban Area General Plan may result in exceedance of wastewater treatment requirements of the Central Valley RWQCB.

Effect: Development resulting from implementation of the Urban Area General Plan may require or result in construction of new wastewater facilities, or the expansion of existing facilities, that could cause significant effects.

Effect: Development resulting from implementation of the Urban Area General Plan may result in a finding that the wastewater treatment facilities do not have adequate capacity to serve the projected demand in addition to the provider’s existing commitments.

**Cumulative Impacts**

Effect: Development resulting from implementation of the Urban Area General Plan may result in cumulative effects similar to those described under “direct Impacts,” above.

**b. Urban Area General Plan Mitigating Policies Applied to the Project**

Sewer service-related mitigating policies that are relevant to the proposed project are found on pages V-6-3 through V-6-7 of the Master EIR. All mitigating policies appropriate to the project will be incorporated into or made conditions of approval of this project and are listed in Section V, “Mitigating Policies Applied to Project.”

Discussion:

The appropriate mitigating policies to be applied to this project include none from the Master EIR. No new or additional mitigation measures or alternatives are required to reduce project impacts to a less-than-significant level.

**c. Project-Specific Effects**

Section V-6.B of the Master EIR discloses impacts on the Increased Demand for Sanitary Sewer Service resulting from implementation of the Urban Area General Plan. The following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not disclosed in the Master EIR.

Significance Criteria: Determination of project effects will be based on the following thresholds. The project-specific effects will be less than significant unless:

	Potentially Significant Impact	Less Than Significant w/Mitigating Policies	Less Than Significant Impact	No Impact
<b>6. INCREASED DEMAND FOR SANITARY SEWER SERVICES</b>				
1) The proposed project is inconsistent with wastewater policies in the Urban Area General Plan, or would exceed wastewater treatment requirements of the Central Valley RWQCB.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
2) The proposed project would require or result in the construction of new wastewater facilities or the expansion of existing facilities, beyond those identified improvements needed to serve the proposed project, which would cause significant effects.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
3) The proposed project would result in a finding that the wastewater treatment facilities do not have adequate capacity to serve the proposed 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"/>

Discussion:

- (1) The proposed rezone will have no effect on the wastewater policies.
- (2) The proposed rezone will have no effect on sewage flows and no effect on wastewater facilities above what is assumed in the adopted Master EIR.
- (3) The proposed rezone will have no effect on wastewater capacity above what is assumed in the adopted Master EIR.

**7. LOSS OF SENSITIVE WILDLIFE AND PLANT HABITAT**

**a. Significant Effects Identified in the Master EIR**

The Master EIR discloses the following residual significant and unavoidable impacts on sensitive wildlife and plant habitat expected after application of mitigating policies.

**Direct Impacts**

Effect: No residual significant impacts on sensitive wildlife and plan habitat are expected to occur with the application of the policies contained in the Urban Area General Plan.

**Cumulative Impacts**

Effect: Implementation of the Urban Area General Plan will contribute to the cumulative impact of habitat loss in the San Joaquin Valley. Requiring increased density / intensity for new development than has occurred in the past, or that is expected in the future, would minimize the City’s contribution to the cumulative loss of habitat. Nonetheless, this is a significant and unavoidable impact.

**b. Urban Area General Plan Mitigating Policies Applied to the Project**

Wildlife and plant habitat-related mitigating policies that are pertinent to the proposed project are found on pages V-7-18 through V-7-25 of the Master EIR. All mitigating policies appropriate to the project will be incorporated into or made conditions of approval of this project and are listed in Section V, “Mitigating Policies Applied to Project.”

Discussion:

The applicable mitigating policies to be applied to this project include none from the Master EIR. No new or additional mitigation measures or alternatives are required to reduce project impacts to a less-than-significant level.

**c. Project-Specific Effects**

Section V-7.B of the Master EIR discloses impacts on the Loss of Sensitive Wildlife and Plant Habitat resulting from implementation of the Urban Area General Plan. The following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not disclosed in the Master EIR.

Significance Criteria: Determination of project effects will be based on the following thresholds. The project-specific effects will be less than significant unless:

	Potentially Significant Impact	Less Than Significant w/Mitigating Policies	Less Than Significant Impact	No Impact
<b>7. LOSS OF PLANT AND WILDLIFE HABITAT</b>				
1) The proposed project is inconsistent with the Urban Area General Plan policies related to loss of sensitive plant and wildlife habitat.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
2) The proposed project would have a substantial	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

	<b>Potentially Significant Impact</b>	<b>Less Than Significant w/Mitigating Policies</b>	<b>Less Than Significant Impact</b>	<b>No Impact</b>
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.				
3) The proposed project would 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"/>
4) The proposed project would 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"/>
5) The proposed project would 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"/>
6) The proposed project would 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"/>
7) The proposed project would 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"/>

**Discussion:**

- (1) The proposed rezone will have no effect on wildlife and plant habitat policies.
- (2) The proposed rezone will have no effect on a candidate, sensitive, or special status species in local or regional plans.
- (3) The proposed rezone will have no effect on riparian habitat or other sensitive natural community identified in local or regional plans. The rezone site is developed with retail buildings and professional/medical offices and is substantially surrounded by urban development.
- (4) The proposed rezone will have no effect on wetlands. No wetlands exist on or near the site.

- (5) The proposed rezone will have no effect on native resident or migratory fish or wildlife species.
- (6) The proposed rezone will have no effect on local policies or ordinances protecting biological resources.
- (7) The proposed rezone will have no effect on local, regional, or state habitat conservation plans.

## **8. DISTURBANCE OF ARCHAEOLOGICAL / HISTORICAL SITES**

### **a. Significant Effects Identified in the Master EIR**

The Master EIR discloses the following residual significant and unavoidable impacts on archaeological / historical sites expected after application of mitigating policies.

#### **Direct Impacts**

Effect: Modification resulting in a substantial adverse change in the significance of a historically relevant resource, or the demolition of a listed or eligible historically relevant resource.

#### **Cumulative Impacts**

Effect: No additional cumulative impacts were disclosed in the Master EIR. The Direct impact described above could also result in a significant cumulative impact.

### **b. Urban Area General Plan Mitigating Policies Applied to the Project**

Archaeological or historic resource-related mitigating policies that are pertinent to the project being analyzed in this Initial Study are found on page V-8-16 through V-8-25 of the Master EIR. All mitigating policies appropriate to the project will be incorporated into or made conditions of approval of this project and are listed in Section V, "Mitigating Policies Applied to Project."

#### Discussion:

The applicable mitigating policies to be applied to this project include: none from the Master EIR. No new or additional mitigation measures or alternatives are required to reduce project impacts to a less-than-significant level.

### **c. Project-Specific Effects**

Section V-8.B of the Master EIR discloses impacts on archaeological / historical resources resulting from implementation of the Urban Area General Plan. The following is an analysis of whether the proposed project would result in any new, significant, project-specific effect(s) not disclosed in the Master EIR.

Significance Criteria: Determination of project effects will be based on the following thresholds. The project-specific effects will be less than significant unless:

	Potentially Significant Impact	Less Than Significant w/Mitigating Policies	Less Than Significant Impact	No Impact
<b>8. ARCHAEOLOGICAL / HISTORICAL SITES</b>				
1) The proposed project is inconsistent with the Urban Area General Plan archaeological / historical resource policies.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
2) The proposed project would result in a modification that would result in a substantial adverse change in the significance of the resource or demolition of a listed or eligible historic resource.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
3) The proposed project would have an adverse effect on any structure more than 50 years old that has been determined to have historical significance per policy AH-8 as shown in the Master EIR.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
4) The proposed project would involve the removal of known significant resources.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
5) The proposed project would result in an adverse impact to undiscovered archaeological and/or paleontological resources.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
6) The proposed project would cause a substantial adverse change to a tribal cultural resource, as defined by State law, that is listed (or is eligible for listing) in the California Register of Historical Resources (or a local register of historical resources), or that otherwise has potential significance to a California Native American Tribe, including human remains.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

Discussion:

- (1) The proposed rezone will have no effect on archaeological/historical resource policies.
- (2) The proposed rezone will have no effect on historical buildings or landmarks. There are no historical buildings or landmarks that exist on or near this site.
- (3) The proposed rezone will have no effect on existing structures that are more than 50 years old that are determined to have historical significance.
- (4) The proposed rezone will have no effect on known significant resources.
- (5) The proposed rezone will have no effect on cultural resources.
- (6) The proposed rezone will have no effect on tribal cultural resources.

**9. INCREASED DEMAND FOR STORM DRAINAGE**

**a. Significant Effects Identified in the Master EIR**

The Master EIR discloses the following residual significant and unavoidable impacts on storm drainage expected after application of mitigating policies.

**Direct Impacts**

Effect: No residual significant direct impacts were disclosed in the Master EIR.

**Cumulative Impacts**

Effect: Existing drainage inadequacies, combined with the associated increase in impervious surface areas created by pavement and structures, have the potential to increase the rate or amount of runoff in a manner that could result in flooding in the urban area. Cumulative hydrologic impacts of storm water flows from Modesto’s urban areas and other areas of the County could occur due to the fixed capacity of MID and TID irrigation canals to convey drainage west to the San Joaquin River. If drainage channels in some areas prove insufficient to handle the increased drainage discharges, existing storm water runoff from urban and agricultural areas during large storm events would have to be interrupted until water levels receded to a point allowing the resumption of discharges to the channel. Ceasing discharges to drainage channels could cause inundation in and around the drainage conveyance pipeline systems, surface drainage channels, detention basins, and other urban areas. This cumulative impact is considered significant and unavoidable.

**b. Urban Area General Plan Mitigating Policies Applied to the Project**

Storm Drainage-related mitigating policies that are pertinent to the project being analyzed in this Initial Study are found on pages V-9-4 through V-9-8. All mitigating policies appropriate to the project will be incorporated into or made conditions of approval of this project and are listed in Section V, “Mitigating Policies Applied to Project.”

Discussion:

The appropriate mitigating policies to be applied to this project include: none from the Master EIR. No new or additional mitigation measures or alternatives are required to reduce project impacts to a less-than-significant level.

**c. Project-Specific Effects**

Section V-9.B of the MASTER EIR discloses impacts on the demand for storm drainage resulting from development of the Urban Area General Plan. The following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not disclosed in the Master EIR.

Significance Criteria: Determination of project effects will be based on the following thresholds. The project-specific effects will be less than significant unless:

	Potentially Significant Impact	Less Than Significant w/Mitigating Policies	Less Than Significant Impact	No Impact
<b>9. INCREASED DEMAND FOR STORM DRAINAGE</b>				

	Potentially Significant Impact	Less Than Significant w/Mitigating Policies	Less Than Significant Impact	No Impact
1) The proposed project is inconsistent with the Urban Area General Plan storm drainage policies.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
2) The proposed project would substantially increase the rate or amount of surface runoff in a manner that would result in on- or off-site flooding.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
3) The proposed project would create or contribute runoff water that would exceed the capacity of existing or planned storm drainage systems or provide substantial additional sources of polluted runoff.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

Discussion:

- (1) The proposed rezone will have no effect on storm drainage policies.
- (2-3) The proposed rezone will have no effect on surface runoff above what is assumed in the adopted Master EIR.

**10. FLOODING AND WATER QUALITY**

**a. Significant Effects Identified in the Master EIR**

The Master EIR discloses the following residual significant and unavoidable impacts on flooding and water quality expected after application of mitigating policies.

**Direct Impacts**

Effect: No residual significant direct impacts were disclosed in the Master EIR.

**Cumulative Impacts**

Effect: No residual significant cumulative impacts were disclosed in the Master EIR.

**b. Urban Area General Plan Mitigating Policies Applied to the Project**

Flooding and Water Quality-related mitigating policies that are pertinent to the project being analyzed in this Initial Study are found on pages V-10-7 through V-10-10 of the Master EIR. All mitigating policies appropriate to the project will be incorporated into or made conditions of approval of this project and are listed in Section V, "Mitigating Policies Applied to Project."

Discussion:

The appropriate mitigating policies to be applied to this project include: none from the Master EIR. No new or additional mitigation measures or alternatives are required to reduce project impacts to a less-than-significant level.

**c. Project-Specific Effects**

Section V-10.B of the Master EIR provides analysis of Flooding and Water Quality impacts of development of the General Plan, the following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not previously analyzed in the Master EIR.

Significance Criteria: Determination of project effects will be based on the following thresholds. The project-specific effects will be less than significant unless:

	Potentially Significant Impact	Less Than Significant w/Mitigating Policies	Less Than Significant Impact	No Impact
<b>10. FLOODING AND WATER QUALITY</b>				
1) The proposed project is inconsistent with the flooding and water quality policies in the Urban Area General Plan.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
2) The proposed project would place housing within a 100-year flood hazard area.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
3) The proposed project would place structures within a 100-year floodplain as defined by FEMA.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
4) The proposed project would expose people or structures to a significant risk of loss, injury or death 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"/>
5) The proposed project would substantially alter the existing drainage pattern of the site or area or the course of a stream or river that would result in flooding onsite or offsite.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
6) The proposed project would violate water quality standards, including groundwater standards administered by the SWRCB's DDW, standards for surface water quality such as the NPDES or waste discharge requirements.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
7) The proposed project would substantially alter the existing drainage pattern of the site or area or 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"/>
8) The proposed project would create or contribute runoff water that would provide substantial additional sources of polluted runoff 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"/>

**Discussion:**

- (1) The proposed rezone will have no effect on flooding and water quality policies.
- (2) The proposed rezone will not result in more housing within a 100-year flood hazard zone.
- (3) The rezone area is outside of the 100-year floodplain as shown on the FEMA Flood Hazard Map 06099C0340F dated August 24, 2021.
- (4) The proposed rezone will not expose people to flooding.
- (5) The proposed rezone will not alter existing drainage patterns of the site that would result in flooding onsite or offsite.
- (6) The proposed rezone will have no effect on water quality standards or waste discharge requirements.
- (7) The proposed rezone will have no effect on existing drainage pattern of the site or area or a watercourse in a manner that would result in substantial erosion or siltation.
- (8) The proposed rezone will not contribute to water runoff above what is assumed in the adopted Master EIR.

## **11. INCREASED DEMAND FOR PARKS AND OPEN SPACE**

### **a. Significant Effects Identified in the Master EIR**

The Master EIR discloses the following residual significant and unavoidable impacts on parks and open space expected after application of mitigating policies.

#### **Direct Impacts**

Effect: No residual significant direct impacts were disclosed in the Master EIR.

#### **Cumulative Impacts**

Effect: No residual significant cumulative impacts were disclosed in the Master EIR.

### **b. Urban Area General Plan Mitigating Policies Applied to the Project**

Parks and open space-related mitigating policies that are pertinent to the proposed project are found on pages V-11-2 through V-11-8 of the Master EIR. All mitigating policies appropriate to the project will be incorporated into or made conditions of approval of this project and are listed in Section V, "Mitigating Policies Applied to Project."

#### Discussion:

The appropriate mitigating policies to be applied to this project include: none from the Master EIR. No new or additional mitigation measures or alternatives are required to reduce project impacts to a less-than-significant level.

### **c. Project-Specific Effects**

Section V-11.B of the MASTER EIR discloses impacts of the Urban Area General Plan on parks and open space. The following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not disclosed in the Master EIR.

Significance Criteria: Determination of project effects will be based on the following thresholds. Project-specific effects will be less than significant unless:

	<b>Potentially Significant Impact</b>	<b>Less Than Significant w/Mitigating Policies</b>	<b>Less Than Significant Impact</b>	<b>No Impact</b>
<b>11. INCREASED DEMAND FOR PARKS AND OPEN SPACE</b>				
1) The proposed project is inconsistent with the Urban Area General Plan parks and open space policies.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
2) The proposed project would eliminate parks or open space.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
3) The proposed project would not provide at least three (3) total acres of parkland and open space per 1,000 people (one acre for neighborhood park facilities; two acres for community park facilities).	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

Discussion:

- (1) The proposed rezone will have no effect on parks and open space policies.
- (2) The proposed rezone will have no effect on parks and open space above what is assumed in the adopted Master EIR.
- (3) The proposed rezone will have no effect on parks and open space needs above what is assumed in the adopted Master EIR.

**12. INCREASED DEMAND FOR SCHOOLS**

**a. Significant Effects Identified in the Master EIR**

The Master EIR discloses the following residual significant and unavoidable impacts on school facilities expected after application of mitigating policies.

**Direct Impacts**

Effect: No residual significant direct impacts were disclosed in the Master EIR. By statute, the impact of new students is considered to be mitigated below a level of significance by payment of school impact fees and the exercise of any or all of the financing options set out in Government Code Section 65997.

**Cumulative Impacts**

Effect: Similar to direct impacts resulting from implementation of the Urban Area General Plan, no residual significant direct impacts were disclosed in the Master EIR.

**b. Urban Area General Plan Mitigating Policies Applied to the Project**

Mitigation relies upon the implementation of the policies in place under the Modesto Urban Area General Plan. As long these policies are applied to all subsequent projects, no new mitigation is necessary. Further, payment of school impact fees and compliance with SB 50 is statutorily deemed to be full mitigation of school impacts (Government Code Section 65995).

Schools-related mitigating policies that are relevant to the proposed project can be found on pages V-12-3 through V-12-5 of the Master EIR. All mitigating policies appropriate to the project will be incorporated into or made conditions of approval of this project and are listed in Section V, "Mitigating Policies Applied to Project."

Discussion:

The appropriate mitigating policies to be applied to this project include: none from the Master EIR. No new or additional mitigation measures or alternatives are required to reduce project impacts to a less-than-significant level.

**c. Project-Specific Effects**

Section V-12.B of the Master EIR discloses impacts resulting from implementation of the Urban Area General Plan associated with increased demand for schools. The following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not disclosed in the Master EIR.

Significance Criteria: Determination of project effects will be based on the following thresholds. The project-specific effects will be less than significant unless:

	Potentially Significant Impact	Less Than Significant w/Mitigating Policies	Less Than Significant Impact	No Impact
<b>12. INCREASED DEMAND FOR SCHOOLS</b>				
1) The proposed project is inconsistent with Urban Area General Plan school policies.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
2) The proposed project would result in new student population that exceeds the school system capacity, or if the project conflicts with established educational uses of the area, except to the limits established under SB50 / Proposition 1A as subsequently amended.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

Discussion:

- (1) The proposed rezone will have no effect on school policies.
- (2) The proposed rezone will have no effect on SB 50/Proposition 1A funding provisions.

### 13. INCREASED DEMAND FOR POLICE SERVICES

#### a. Significant Effects Identified in the Master EIR

The Master EIR discloses the following residual significant and unavoidable impacts on police services expected after application of mitigating policies.

##### Direct Impacts

Effect: No residual significant direct impacts were disclosed in the Master EIR.

##### Cumulative Impacts

Effect: No residual significant cumulative impacts were disclosed in the Master EIR.

#### b. Urban Area General Plan Mitigating Policies Applied to the Project

Police services-related mitigating policies that are pertinent to the proposed project are found on pages V-13-2 through V-13-5 of the Master EIR. All mitigating policies appropriate to the project will be incorporated into or made conditions of approval of this project and are listed in Section V, "Mitigating Policies Applied to Project."

##### Discussion:

The appropriate mitigation to be applied to this project includes none from the Master EIR. No new or additional mitigation measures or alternatives are required to reduce project impacts to a less-than-significant level.

#### c. Project-Specific Effects

Section V-13.B of the Master EIR discloses impacts on police services resulting from implementation of the Urban Area General Plan. The following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not disclosed in the Master EIR.

Significance Criteria: Determination of project effects will be based on the following thresholds. The project-specific effects will be less than significant unless:

	Potentially Significant Impact	Less Than Significant w/Mitigating Policies	Less Than Significant Impact	No Impact
<b>13. INCREASED DEMAND FOR POLICE SERVICES</b>				
1) The proposed project is inconsistent with Urban Area General Plan policies relating to police service.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
2) The proposed project would result in development occurring in an area(s) that cannot be adequately served by existing or budgeted police personnel and facilities.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

Discussion:

- (1) The proposed rezone will have no effect on police policies.
- (2) The proposed rezone will not result in the need for more police personnel and facilities.

**14. INCREASED DEMAND FOR FIRE SERVICES**

**a. Significant Effects Identified in the Master EIR**

The Master EIR discloses the following residual significant and unavoidable impacts on fire services expected after application of mitigating policies.

**Direct Impacts**

Effect: No residual significant direct impacts were disclosed in the Master EIR.

**Cumulative Impacts**

Effect: No residual significant cumulative impacts were disclosed in the Master EIR.

**b. Urban Area General Plan Mitigating Policies Applied to the Project**

Fire Services-related mitigating policies pertinent to the project being analyzed in this Initial Study are found on pages V-14-3 through V-14-5 of the Master EIR. All mitigating policies appropriate to the project will be incorporated into or made conditions of approval of this project and are listed in Section V, "Mitigating Policies Applied to Project."

Discussion:

The appropriate mitigating policies to be applied to this project include: none from the Master EIR. No new or additional mitigation measures or alternatives are required to reduce project impacts to a less-than-significant level.

**c. Project-Specific Effects**

Section V-14.B of the Master EIR discloses impacts on fire services resulting from implementation of the Urban Area General Plan. The following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not disclosed in the Master EIR.

Significance Criteria: Determination of project effects will be based on the following thresholds. The project-specific effects will be less than significant unless:

	<b>Potentially Significant Impact</b>	<b>Less Than Significant w/Mitigating Policies</b>	<b>Less Than Significant Impact</b>	<b>No Impact</b>
<b>14. INCREASED DEMAND FOR FIRE SERVICES</b>				

	Potentially Significant Impact	Less Than Significant w/Mitigating Policies	Less Than Significant Impact	No Impact
1) The proposed project is inconsistent with Urban Area General Plan policies relating to fire service.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
2) The proposed project would result in any substantial adverse impact(s) associated with the need for – and/or provision of – new or physically altered fire service facilities, the construction of which could cause significant environmental impacts, in order to maintain acceptable response times.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

Discussion:

- (1) The proposed rezone will have no effect on fire service policies.
- (2) The proposed rezone will not result in the need for more fire service facilities.

**15. GENERATION OF SOLID WASTE**

**a. Significant Effects Identified in the Master EIR**

The Master EIR discloses the following residual significant and unavoidable impacts on solid waste expected after application of mitigating policies.

**Direct Impacts**

Effect: No residual significant direct impacts were disclosed in the Master EIR.

**Cumulative Impacts**

Effect: No residual significant cumulative impacts were disclosed in the Master EIR.

**b. Urban Area General Plan Mitigating Policies Applied to the Project**

Solid waste-related mitigating policies that are pertinent to the proposed project are found on pages V-15-4 through V-15-5 of the Master EIR. All mitigating policies appropriate to the project will be incorporated into or made conditions of approval of this project and are listed in Section V, "Mitigating Policies Applied to Project."

Discussion:

The appropriate mitigating policies to be applied to this project include: none from the Master EIR. No new or additional mitigation measures or alternatives are required to reduce project impacts to a less-than-significant level.

**c. Project-Specific Effects**

Section V-15.B of the Master EIR discloses solid waste impacts resulting from implementation of the Urban Area General Plan. The following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not disclosed in the Master EIR.

Significance Criteria: Determination of project effects will be based on the following thresholds. Project-specific effects will be less than significant unless:

	Potentially Significant Impact	Less Than Significant w/Mitigating Policies	Less Than Significant Impact	No Impact
<b>15. GENERATION OF SOLID WASTE</b>				
1) The project is inconsistent with the solid waste policies in the Urban Area General Plan.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
2) The project would result in solid waste generation that exceeds the projected capacity of existing landfills and waste-reduction facilities, or if it would result in non-compliance with any federal, state or local statutes or regulations related to solid waste.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

Discussion:

- (1) The proposed rezone will have no effect on solid waste policies.
- (2) The proposed rezone will have no effect on landfills or solid waste-reduction facilities above what is assumed in the adopted Master EIR.

**16. GENERATION OF HAZARDOUS MATERIALS**

**a. Significant Effects Identified in the Master EIR**

The Master EIR discloses the following residual significant and unavoidable impacts regarding hazardous materials expected after application of mitigating policies.

**Direct Impacts**

Effect: No residual significant direct impacts were disclosed in the Master EIR.

**Cumulative Impacts**

Effect: No residual significant cumulative impacts were disclosed in the Master EIR.

**b. Urban Area General Plan Mitigating Policies Applied to the Project**

Hazardous materials-related mitigating policies that are pertinent to the proposed project are found on pages V-16-5 through V-16-10 of the Master EIR. All mitigating policies appropriate to the project will

be incorporated into or made conditions of approval of this project and are listed in Section V, "Mitigating Policies Applied to Project."

Discussion:

The appropriate mitigating policies to be applied to this project include: none from the Master EIR. No new or additional mitigation measures or alternatives are required to reduce project impacts to a less-than-significant level.

**c. Project-Specific Effects**

Section V-16.B of the Master EIR discloses impacts on hazardous materials resulting from implementation of the Urban Area General Plan. The following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not disclosed in the Master EIR.

Significance Criteria: Determination of project effects will be based on the following thresholds. The project-specific effects will be less than significant unless:

	Potentially Significant Impact	Less Than Significant w/Mitigating Policies	Less Than Significant Impact	No Impact
<b>16. HAZARDS AND HAZARDOUS MATERIALS</b>				
1) The proposed project is inconsistent with the Urban Area General Plan hazards and hazardous materials policies.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
2) The proposed project would create a significant hazard to the public or the environment through the routine transport, use or disposal of hazardous materials, or 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"/>
3) The proposed project would result in hazardous materials emissions or handle 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"/>
4) The proposed project would 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 create a significant hazard to the public or environment.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
5) For a project located within an airport land use plan or, where such a plan has not been adopted, within two (2) miles of a public airport or public use airport, would 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"/>
6) For a project within the vicinity of a private airstrip, a safety hazard would result 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 w/Mitigating Policies	Less Than Significant Impact	No Impact
7) The proposed project would 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"/>
8) The proposed project would 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"/>

Discussion:

- (1) The proposed rezone will have no effect on hazardous materials policies.
- (2) The proposed rezone will not involve hazardous materials.
- (3) The proposed rezone will not result in the production of hazardous emissions or handling of hazardous materials.
- (4) The proposed rezone is not located on a hazardous materials site.
- (5-6) The rezone site is not within two miles of any airport.
- (7) The proposed rezone will not interfere with an emergency response plan or evacuation plan.
- (8) The proposed rezone will not expose people to wildland fires. The project site and surround area is already developed with urban uses.

**17. GEOLOGY, SOILS, AND MINERAL RESOURCES**

**a. Significant Effects Identified in the Master EIR**

The Master EIR discloses the following residual significant and unavoidable impacts related to geology, soils, and mineral resources expected after application of mitigating policies.

**Direct Impacts**

Effect: No residual significant direct impacts were disclosed in the Master EIR.

**Cumulative Impacts**

Effect: No residual significant cumulative impacts were disclosed in the Master EIR.

**b. Urban Area General Plan Mitigating Policies Applied to the Project**

Geology, soils, and mineral resource-related mitigating policies that are pertinent to the proposed project are found on pages V-17-7 through V-17-10 of the Master EIR. All mitigating policies appropriate to the project will be incorporated into or made conditions of approval of this project and are listed in Section V, "Mitigating Policies Applied to Project."

Discussion:

The appropriate mitigating policies to be applied to this project include: none from the Master EIR. No new or additional mitigation measures or alternatives are required to reduce project impacts to a less-than-significant level.

**c. Project-Specific Effects**

Section V-17.B of the Master EIR discloses geology, soils, and mineral resource impacts resulting from implementation of the Urban Area General Plan. The following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not disclosed in the Master EIR.

Significance Criteria: Determination of project effects will be based on the following thresholds. Project-specific effects will be less than significant unless:

	Potentially Significant Impact	Less Than Significant w/Mitigating Policies	Less Than Significant Impact	No Impact
<b>17. GEOLOGY, SOILS, AND MINERAL RESOURCES</b>				
1) The project is inconsistent with policies relating to geology, soils, and mineral resources contained in the Urban Area General Plan.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
2) The proposed project would expose people or structures to potential substantial adverse effects including: the risk of loss, injury, or death involving fault rupture, strong seismic activity; location on an expansive soil; loss of topsoil; or, result in the loss of availability of known mineral resources that would be of value to the region and the state.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

Discussion:

- (1) The proposed rezone will have no effect on geology, soils, and mineral resources policies.
- (2) The proposed rezone will not result in exposing people or structures to seismic activities, location on expansive soils, or loss of mineral resources above what is assumed in the adopted Master EIR.

**18. ENERGY**

**a. Significant Effects Identified in the Master EIR**

The Master EIR discloses the following residual significant and unavoidable impacts pertaining to energy expected after application of mitigating policies.

**Direct Impacts**

Effect: No residual significant direct impacts were disclosed in the Master EIR.

**Cumulative Impacts**

Effect: No residual significant cumulative impacts were disclosed in the Master EIR.

**b. Urban Area General Plan Mitigating Policies Applied to the Project**

The following energy-related mitigating policies that are pertinent to the proposed project are found on pages V-18-2 and V-18-3 in the Master EIR. All mitigating policies appropriate to the project will be incorporated into or made conditions of approval of this project and are listed in Section V, "Mitigating Policies Applied to Project."

Discussion:

The appropriate mitigating policies to be applied to this project include: none from the Master EIR. No new or additional mitigation measures or alternatives are required to reduce project impacts to a less-than-significant level.

**c. Project-Specific Effects**

Section V-18.B of the Master EIR discloses impacts of implementing the Urban Area General Plan on energy resources. The following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not disclosed in the Master EIR.

Significance Criteria: Determination of project effects will be based on the following thresholds. The project-specific effects will be less than significant unless:

	Potentially Significant Impact	Less Than Significant w/Mitigating Policies	Less Than Significant Impact	No Impact
<b>18. ENERGY</b>				
1) The proposed project is inconsistent with policies relating to energy in the Urban Area General Plan.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
2) The proposed project would result in energy consumption during construction, operation, maintenance, or removal that is more wasteful, inefficient, and unnecessary than assumed in the Urban Area General Plan.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

Discussion:

- (1) The proposed rezone will have no effect on energy policies.
- (2) The proposed rezone will not result in wasteful energy consumption during any future construction activities above what is assumed in the adopted Master EIR.

**19. EFFECTS ON VISUAL RESOURCES**

**a. Significant Effects Identified in the Master EIR**

The Master EIR discloses the following residual significant and unavoidable impacts on visual resources expected after application of mitigating policies.

**Direct Impacts**

Effect: No residual significant direct impacts were disclosed in the Master EIR.

**Cumulative Impacts**

Effect: No additional cumulative impacts were disclosed in the Master EIR.

**b. Urban Area General Plan Mitigating Policies Applied to the Project**

The following visual resources-related mitigating policies pertinent to the proposed project are found on pages V-19-2 and V-19-3 in the Master EIR. All mitigating policies appropriate to the project will be incorporated into or made conditions of approval of this project and are listed in Section V, "Mitigating Policies Applied to Project."

Discussion:

The appropriate mitigating policies to be applied to this project include: none from the Master EIR. No new or additional mitigation measures or alternatives are required to reduce project impacts to a less-than-significant level.

**c. Project-Specific Effects**

Section V-18.B of the Master EIR discloses impacts of implementing the Urban Area General Plan on visual resources. The following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not disclosed in the Master EIR.

Significance Criteria: Determination of project effects will be based on the following thresholds. The project-specific effects will be less than significant unless:

	Potentially Significant Impact	Less Than Significant w/Mitigating Policies	Less Than Significant Impact	No Impact
<b>19. VISUAL RESOURCES</b>				
1) The proposed project is inconsistent with the	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

	Potentially Significant Impact	Less Than Significant w/Mitigating Policies	Less Than Significant Impact	No Impact
Urban Area General Plan visual resource policies.				
2) The proposed project would have a substantial adverse effect on a scenic vista.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
3) The proposed project would substantially damage scenic resources, including trees, rock outcrops, and/or historic buildings along a state scenic highway.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
4) The proposed project would 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"/>
5) The proposed project would create a new source of substantial light or glare that would adversely affect daytime or nighttime views.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
6) The proposed project would substantially degrade views from riverside areas and parks.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
7) The proposed project would substantially degrade views of riverside areas from public roadways and/or nearby properties.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

**Discussion:**

- (1) The proposed rezone is consistent with the Urban Area General Plan visual resource policies.
- (2) The proposed rezone will not have an adverse effect on a scenic vista.
- (3) The proposed rezone will not damage scenic resources.
- (4) The proposed rezone will not degrade the visual character of its surroundings above what is assumed in the adopted Master EIR.
- (5) The proposed rezone will not create light or glare that would affect views.
- (6) The proposed rezone will have no effect on views from riverside areas and parks.
- (7) The proposed rezone will have no effect on views of riverside areas from public roadways and nearby properties.

**20. LAND USE AND PLANNING**

**a. Significant Effects Identified in the Master EIR**

The Master EIR discloses the following residual significant and unavoidable impacts pertaining to land use and planning expected after application of mitigating policies.

**Direct Impacts**

Effect: No residual significant direct impacts were disclosed in the Master EIR.

**Cumulative Impacts**

Effect: No residual significant cumulative impacts were disclosed in the Master EIR.

**b. Master EIR and/or New Mitigation Measures Applied to the Project**

The following land use and planning-related mitigating policies pertinent to the proposed project are found on pages V-20-5 through V-20-12 in the Master EIR. All mitigating policies appropriate to the project will be incorporated into or made conditions of approval of this project and are listed in Section V, "Mitigating Policies Applied to Project."

Discussion:

The appropriate mitigating policies to be applied to this project include: none from the Master EIR. No new or additional mitigation measures or alternatives are required to reduce project impacts to a less-than-significant level.

**c. Project-Specific Effects**

Section V-20.B of the Master EIR discloses impacts of implementing the Urban Area General Plan on land use and planning. The following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not disclosed in the Master EIR.

Significance Criteria: Determination of project effects will be based on the following thresholds. The project-specific effects will be less than significant unless:

	Potentially Significant Impact	Less Than Significant w/Mitigating Policies	Less Than Significant Impact	No Impact
<b>20. LAND USE AND PLANNING</b>				
1) The proposed project is inconsistent the Urban Area General Plan land use and planning policies.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
2) The proposed project contains elements that would physically divide an established community in a way not assumed in the Urban Area General Plan.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
3) The proposed project conflicts with a land use plan, policy or regulation established for the purpose of avoiding or mitigating an environmental impact by an agency that has jurisdiction over the proposed project.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
4) The proposed project conflicts with an applicable habitat conservation plan or natural community conservation plan.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

Discussion:

- (1) The proposed rezone will be consistent land use and planning policies. The rezone area is developed with retail buildings and professional/medical offices and associated parking areas. A portion of the rezone area is also identified in the City of Modesto Urban Area General Plan as a mixed-use development concept area, as part of Major Transportation Corridors polices in Chapter III, Section 3 of the General Plan that encourages mixed-use infill projects including high-quality multi-story residential development.
- (2) The proposed rezone will not result in the physical division of an established community.
- (3) The proposed rezone will have no effect on a land use plan, policy or regulation established for the purpose of avoiding or mitigating an environmental impact.
- (4) The proposed rezone will have no effect on applicable habitat conservation plan or natural community conservation plan.

**V. APPLICABLE URBAN AREA GENERAL PLAN MITIGATING POLICIES**

If the Initial Study results in the determination that a Finding of Conformance can be adopted for the proposed project, then Section A, below, applies. If the Initial Study results in the determination that a Finding of Conformance cannot be adopted and a Mitigated Negative Declaration or Focused EIR must be prepared for the project, then Section B, below, applies.

**A. Urban Area General Plan Mitigating Policies Applied to the Project**

Pursuant to Public Resources Code Section 21157.1(c), in order for a Finding of Conformance to be made, all appropriate mitigating policies from the Master EIR shall be incorporated into the proposed project. Urban Area General Plan Policies that mitigate impacts shall be made part of the proposed project prior to approval by means of conditions of project approval or incorporation into the appropriate document or plan. All applicable and appropriate mitigating policies have been applied to the project (listed below).

**B. New or Additional Mitigation Measures or Alternatives Required**

Where the project’s effects would exceed the significance criteria for each environmental impact category, a mitigated negative declaration or Focused EIR must be prepared. Staff has reviewed the project against the significance criteria thresholds established in the Master EIR for all impact categories in this Initial Study.

A Mitigated Negative Declaration or Focused EIR shall be prepared for the project. The following additional project-specific mitigation measures listed below are necessary to reduce the identified new significant effect: none.

**Traffic and Circulation:**

There are no standard / typical examples of general plan policies that would mitigate project-specific impacts for this category. Traffic study(ies) may be required for any given project(s).

**Air Quality and Greenhouse Gases:**

**AQ-85.** Review of new development shall be coordinated with SJVAPCD staff to ensure all projects subject to the SJVAPCD Rule 9510 (Indirect Source Review) comply fully with the rule. This rule fulfills the SJVAPCD's emission reduction commitments in the PM10 and Ozone Attainment Plans through emission reductions from the construction and use of development projects through design features and onsite measures. Rule 9510 applies to any applicant that seeks to gain a final discretionary approval for a development project, or any portion thereof, which meets certain minimum thresholds. (Policy VII.H.2.u)

**AQ-86.** A Construction Health Risk Assessment shall be required on a project-by-project basis if, at the direction of SJVAPCD after applicant consultation, the specific project is considered to have a potentially significant project-level health risk impact, through refined modeling using 2015 OEHHA guidance (or the latest accepted methodology), to identify impacts and, if necessary, include measures determined by SJVAPCD to reduce exposure. (Policy VII.H.2.v)

**AQ-87.** Future development that includes sensitive receptors (such as schools, hospitals, daycare centers, or retirement homes) located within the setback distances from highways, railroads, local roadways, and stationary sources specified below shall require site-specific analysis to determine the level of TAC and PM<sub>2.5</sub> exposure. This analysis shall be conducted following methodology and procedures recommended by SJVAPCD and OEHHA. If the site-specific analysis reveals significant exposures, such as cancer risk greater than 20 in one million or acute or chronic hazards with a Hazard Index greater than 1.0, additional measures (described below) shall be required to reduce the risk below the threshold. (Policy VII.H.2.w)

Setback screening distances:

- a) Gasoline dispensing facilities: 300 feet for large facilities (3.6 million gallons of throughput a year or more) and 50 feet for smaller facilities;
- b) Dry cleaning facilities: 300 feet for facilities that emit Perchloroethylene;
- c) Distribution centers: 1,000 feet;
- d) Chrome platers: 1,000 feet;
- e) Freeways, urban roads with 100,000 vehicles/day or rural roads with 50,000 vehicles/day or more: 500 feet;
- f) BNSF rail line: 800 feet from 2020-2024, and 500 feet for 2025 and later; and,
- g) UP rail line: 200 feet east of the rail line and 300 feet west of the rail line from 2020-2024, and 100 feet east of the rail line and 200 feet west of the rail line for 2025 and later.

Future non-residential developments containing potentially significant TAC sources would be evaluated in consultation with SJVAPCD to ensure that they do not cause a significant health risk in terms of excess cancer risk greater than 20 in one million, or acute or chronic hazards with a Hazard Index greater than 1.0. This analysis shall be conducted following methodology and procedures recommended by SJVAPCD and OEHHA. If the site-specific analysis reveals significant exposures, additional measures shall be required as described below to reduce the risk to below the threshold.

If the analysis shows the cancer risk exposure is significant, Then the project sponsor shall submit performance specifications and design details to demonstrate that lifetime residential exposures would be reduced to a level of less-than-significant under the applicable threshold subject to approval by the City. The specifications or design standards may include the following or other comparable measures:

- i. Install air filtration systems rated MERV-13 or higher and a maintenance plan for the air filtration system shall be implemented.

- ii. Plant trees and/or vegetation between sensitive receptors and pollution sources, if feasible. Trees that are best suited to trapping particulate matter shall be planted, including the following: Pine (*Pinus nigra* var. *maritime*), Cypress (*X Cupressocyparis leylandii*), Hybrid poplar (*Populus deltoids X trichocarpa*), and Redwoods (*Sequoia sempervirens*).
- iii. Design sites to locate sensitive receptors as far as possible from any freeways, roadways, diesel generators, distribution centers, and rail lines.
- iv. Locate operable windows, balconies, and building air intakes as far away from these sources as feasible. If near a distribution center, residents shall not be located immediately adjacent to a loading dock or where trucks concentrate to deliver goods.

**AQ-100.** Reduce particulate emissions from construction, grading, excavation, and demolition to the maximum extent feasible in accordance with the requirements of SJVAPCD Regulation VIII. Regulation VIII was adopted to reduce the amount of particulate matter suspended in the atmosphere as a result of emissions generated from anthropogenic (man-made) fugitive dust sources. (Policy VII.H.2.jj)

**AQ-101.** Require all access roads, driveways, and parking areas serving new commercial and industrial development to be constructed with materials that minimize particulate emissions in accordance with the requirements of SJVAPCD Regulation VIII and are appropriate to the scale and intensity of use. (Policy VII.H.2.kk)

**AQ-102.** Reduce PM10 emissions from City–maintained roads to the maximum extent feasible. (Policy VII.H.2.ll)

**AQ-103.** Effectively stabilize dust emissions using water, chemical stabilizer / suppressant, cover with a tarp or other suitable cover or vegetative ground cover, all disturbed areas, including storage piles, which are not being actively utilized for construction purposes. (Policy VII.H.2.mm)

**AQ-104.** Effectively stabilize dust emissions using water or chemical stabilizer / suppressant, all onsite unpaved roads and off-site unpaved access roads. (Policy VII.H.2.nn)

**AQ-105.** Effectively control fugitive dust emissions utilizing application of water or by presoaking all land clearing, grubbing, scraping, excavation, land leveling, grading, cut & fill, and demolition activities. (Policy VII.H.2.oo)

**AQ-106.** Wet all exterior surfaces of buildings that are more than six stories tall during demolition. (Policy VII.H.2.pp)

**AQ-107.** When materials are transported off site, cover all materials, or effectively wet them to limit visible dust emissions, and maintain at least six inches of freeboard from top of container. (Policy VII.H.2.qq)

**AQ-108.** Limit operations 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.) (Policy VII.H.2.rr)

**AQ-109.** Following the addition of materials to, or the removal of materials from, the surface of outdoor storage piles, effectively stabilize said piles for fugitive dust emissions utilizing sufficient water or chemical stabilizer / suppressant. (Policy VII.H.2.ss)

**AQ-110.** Within urban areas, immediately remove trackout when it extends 50 or more feet from the site and at the end of each workday. (Policy VII.H.2.tt)

**AQ-111.** Prevent carryout and trackout for any site with 150 or more vehicle trips per day. (Policy VII.H.2.uu)

**AQ-112.** Limit traffic speeds on unpaved roads to 15 mph. (Policy VII.H.2.vv)

**AQ-113.** Install sandbags or other erosion control measures to prevent silt runoff to public roadways from sites with a slope greater than one percent (1%). (Policy VII.H.2.ww)

**AQ-114.** Install wheel washers for all exiting trucks, or wash all trucks and equipment leaving the site. (Policy VII.H.2.xx)

**AQ-115.** Install wind breaks at windward side(s) of construction areas. (Policy VII.H.2.yy)

**AQ-116.** Suspend excavation and grading activity when winds exceed 20 mph (regardless of windspeed, an owner/operator must comply with Regulation VIII's 20 percent opacity limit). (Policy VII.H.2.zz)

**AQ-117.** Limit the area subject to excavation, grading, and other construction activity at any one time. (Policy VII.H.2.aaa)

#### **Generation of Noise and Vibration:**

**Noise-4.** Implement noise-reducing construction practices as conditions of approval where substantial construction-related noise impacts would be likely to occur, such as with extended periods of pile driving, or where construction is expected to continue or where sensitive receptors would be affected by construction noise. Conditions of approval may include, but are not limited to:

- Require construction equipment, including air compressors and pneumatic equipment to have properly maintained mufflers;
- Require impact tools to be equipped with shrouds or shields;
- Require that the quietest equipment available be used; and,
- Require selection of haul routes that affect the fewest number of people. (Policy VII-G.3.b)

**Noise-5.** Implement techniques, where feasible, to reduce noise impacts from new or widened roadways. Such techniques may include, but are not limited to:

- Traffic calming to reduce vehicle speeds, including narrowing travel lanes and limiting the number of motor vehicle lanes;
- Adding bicycle and parking lanes to move the noise source farther away from sensitive receptors; and,
- Use of earthen berms and landscaped walls to channel noise away from sensitive receptors. (Policy VII-G.3.c)

**Noise-6.** Use the most recent noise contour map (Figure VII-2) to implement the requirements of Noise Insulation Standards contained in Title 24 of the California Code of Regulations. Developers may be allowed to demonstrate that detailed noise studies and / or mitigation are not necessary due to local conditions, changes in the expected future noise environment, or inapplicable assumptions made in the Master EIR. (Policy VII-G.3.d)

**Noise-7.** Incorporate construction practices and acoustic treatment in new residential construction to reduce typical indoor noise levels to 45 dB. Developers of residential buildings within the 65 dBA contours shown in the General Plan Master EIR shall demonstrate that interior noise has been reduced to 45 dB. Other types of development should be protected against noise intrusion at least to the levels indicated on UAGP Table VII-2. (Policy VII-G.3.e)

**Noise-8.** For proposed non-transportation noise sources, reduce noise levels so as not to exceed the allowable noise exposure thresholds specified in Table V.3.8, below, at the property line of residential or other noise-sensitive land uses. (Policy VII-G.3.f)

**TABLE V.3.8. Noise Exposure Thresholds – Non-Transportation Noise Sources**

	Citywide (excludes Downtown)		Downtown only	
	Daytime (7:00am - 10:00pm)	Nighttime (10:00pm - 7:00am)	Daytime (7:00am - 10:00pm)	Nighttime (10:00pm - 7:00am)
Hourly $L_{eq}$ , dBA	55	45	60	50
Maximum level, dBA	75	65	80	70

\* Each of the noise level standards shall be reduced by five (5) dBA for pure tone noises, noise consisting primarily of speech or music, or for recurring impulsive noises. Where measured ambient noise levels exceed the standards, the standards shall be increased to the ambient levels.

\*\* If the existing ambient noise level at the receiving use exceeds the thresholds given in Table V.3.9, then the noise level standards shall be increased to account for the ambient noise level.

**Noise-9.** At noise-sensitive land uses, increases in noise should not exceed 3 dBA where any other noise threshold or standard would be exceeded, and/or 5 dBA where noise levels would otherwise fall within acceptable limits, for the existing conditions scenario as compared to the buildout scenario. (Policy VII-G.3.g)

**Noise-10.** Additional study and/or mitigation for outdoor recreation areas will be required if:

- For single-family dwellings, noise exceeds 65 dBA  $L_{dn}$  in one or more backyards;
- For multi-family dwellings, noise exceeds 65 dBA  $L_{dn}$  at common recreation areas, such as swimming pools or play areas or at private patios and balconies; or,
- For other uses, noise exceeds the level considered “conditionally acceptable” as shown on Table VII-2 of the General Plan. (Policy VII-G.3.h)

**Noise-11.** Limit trucking to specific routes, times, and speeds that avoid or minimize adverse effects on sensitive receptors. (Policy VII-G.3.i)

**Noise-14.** For new residential development proposed in areas within 200 feet of the center of the near mainline of active rail lines where single-event noise from trains is of concern, demonstrate that the proposed development will incorporate measures to reduce maximum noise levels generated during train passbys to 50 dBA  $L_{max}$  or less inside bedrooms and to 55 dBA  $L_{max}$  or less inside other noise sensitive occupied areas. (Policy VII-G.3.l)

**Noise-15.** For new residential and vibration sensitive commercial development (including but not limited to lodging facilities, hospitals and similar uses) located within 200 feet of the center of the near mainline of active rail lines, demonstrate that the proposed development will incorporate measures to reduce vibration levels generated during train passby events to meet the FTA vibration criteria as shown in Master EIR Table V-3-6. (Policy VII-G.3.m)

**Noise-16.** For construction activities involving high-powered vibratory tools or pile driving within 200 feet of an existing structure, demonstrate that project construction would not exceed the Caltrans construction vibration thresholds to ensure that no damage to structures would occur. (Policy VII-G.3.n)

**Effects on Agricultural Lands:**

**AL-21.** Require development projects to comply with current LAFCo policy(ies) regarding preservation of agricultural resources. (Policy VII-D.4[f])

**Increased Demand for Long-Term Water Supplies:**

There are no standard / typical examples of general plan policies that would mitigate project-specific impacts for this category. Water studies / analyses may be required depending on the scope or location of the proposed development project.

**Increased Demand for Sanitary Sewer Services:**

There are no standard / typical examples of general plan policies that would mitigate project-specific impacts for this category. Sanitary sewage generation and/or capacity studies may be required depending on the scope or location of the proposed development project.

**Loss of Sensitive Wildlife and Plant Habitat:**

**SWPH-11.** For proposed development consistent with the adopted Urban Area General Plan on lands within the Baseline Developed Area and Downtown, exclusive of lands within the Dry Creek and Tuolumne River Comprehensive Planning Districts, an assessment of whether any potential habitat for special-status species is present within proposed development areas shall be made. No further biological study is warranted unless habitat is present or if specific information concerning the known or potential presence of significant biological resources is identified in future updates of the California Natural Diversity Database, or through formal or informal input received from resource agencies or other qualified sources (Policy VII-E.2[a]).

(Check the MEIR for required species-specific surveys – mostly applicable in the PUA and around the periphery of the City’s urbanized / developed area.)

**Disturbance of Archaeological / Historic Sites:**

**AH-12.** If land designated or proposed to be designated for development is discovered through archival research, consultation or by chance, to contain a sacred or traditional place, consult with the NAHC and the appropriate Native American groups and individuals for the purpose of determining the level of confidentiality required to protect the cultural place and for the purpose of developing treatment with appropriate dignity of the cultural place in any corresponding management plan. Avoid and preserve sacred sites whenever feasible. (Policy VII.F.2[i])

**AH-14.** For any project that involves earth-disturbing activities within the archaeological resource study area (defined as the Riparian and Vernal Pool Locations shown on MEIR Figure V-7-1), or on a site determined to be archaeologically or culturally sensitive by City staff through consultation with Native American tribes or bands and a qualified archaeologist, require the project applicant to implement the following mitigation measures, at a minimum:

- (1) Where excavation or construction would occur outside of areas where development has occurred, or where excavation / construction would occur at depths greater than existing foundations, roads, and/or trenches in the immediate vicinity, evaluate the site via a qualified archaeologist retained by the project applicant. Said evaluation would include at minimum a records search, a Phase I pedestrian survey, and preparation of an archaeological report containing the results of this cultural resources inventory identification effort for submittal to the Central California Information Center. If a Phase II archaeological evaluation is recommended, complete a report of the survey and any excavations with recommendations prior to project approval;
- (2) In the event of the discovery of a burial, human bone, or suspected human bone, immediately halt all excavation or grading in the vicinity of the find and protect the area of the find. The project applicant shall immediately notify the Modesto Police Department and County Coroner of the find and comply with the provisions of California Health and Safety Code Section 7050.5, including California Public Resources Code Section 5097.98, if applicable. If human remains are identified, also retain a Native American monitor at the applicant's expense;
- (3) A qualified archaeological monitor will be present and will have the authority to stop and redirect grading activities, in consultation with the Native Americans and their designated monitors, to evaluate the significance of any Native American archaeological resources discovered on the property;
- (4) Relinquish ownership of all Native American human remains and/or artifacts that are found within the project area, to the appropriate Native American Most Likely Descendent (MLD), as assigned by the Native American Heritage Commission, for proper treatment and disposition. The MLD will decide whether or not standard archaeological analysis will be allowed on human remains and associated artifacts from burials; and,
- (5) If paleontological resources are discovered during earth-moving activities, the construction crew shall immediately cease work in the vicinity of the find, and the City's Planning Manager shall be notified. A qualified paleontologist shall evaluate the resource to determine if it is significant. If the resource is significant, prepare a proposed mitigation plan in accordance with Society of Vertebrate Paleontology guidelines. The proposed mitigation plan may include a field survey of additional construction areas, sampling and data recovery procedures, museum storage coordination for any specimen recovered, and a report of findings. Recommendations determined by the lead agency to be necessary and feasible shall be implemented before construction activities can resume at the site where the paleontological resources were discovered. (Policy VII.F.2[k])

**AH-15.** Whenever possible, 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, green space, or other open space;
- (3) Covering the sites with a layer of chemically stable soil; and/or,
- (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 Section 7050.5; Guidelines Section 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 Section 15126.4(b)). (Policy VII.F.2[l])

**AH-16.** Allow reasonable time 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. (Policy VII.F.2[m])

**AH-17.** 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) will meet to determine the appropriate course of action. (Policy VII.F.2[n])

**AH-18.** All cultural materials recovered as part of a monitoring program are subject to scientific analysis, professional museum curation, and a report prepared according to current professional standards. (Policy VII.F.2[o])

**AH-19.** Any project subject to CEQA that involves substantial earth-disturbing activities should require consultation by the applicant for the purposes of determining the potential for archaeological and cultural resources impacts and creating appropriate mitigation to address any such impacts. (Policy VII.F.3[a])

**AH-20.** Any project that involves earth-disturbing activities within previously undisturbed soils in an area determined to be archaeologically or culturally sensitive by the City of Modesto through consultation with Native American tribes or bands and a qualified archaeologist should be subject to archaeological and Native American monitoring during all ground-disturbing activities. (Policy VII.F.3[b])

**AH-21.** Any project that involves earth-disturbing activities within previously undisturbed soils in an area determined to be archaeologically or culturally sensitive by the City of Modesto through consultation with Native American tribes or bands and a qualified archaeologist should be required to carry out the following mitigation measures, at a minimum:

- (1) If prehistoric archaeological remains are discovered during project construction (inadvertent discoveries), all work in the area of the find shall cease, and a qualified archaeologist should be retained by the project sponsor to investigate the find, and make recommendations as to treatment and mitigation. In the event of the discovery of a burial, human bone, or suspected human bone all excavation or grading in the vicinity of the find should halt immediately and the area of the find should be protected and the project applicant immediately should notify the County Coroner of the find and comply with the provisions of California Health and Safety Code Section 7050.5, including California Public Resources Code Section 5097.98, if applicable. If human remains are identified, the project sponsor should also retain a Native American monitor;
- (2) A qualified archaeological monitor should be present and should have the authority to stop and redirect grading activities, in consultation with the Native Americans and their designated

monitors, to evaluate the significance of any Native American archaeological resources discovered on the property;

- (3) Native American monitors from the appropriate Native American Tribes, as determined by the NAHC should be allowed to monitor all groundbreaking activities, including all archaeological testing and data recovery excavations that are likely to affect Native American resources, as determined by a qualified archaeologist. The project proponent should be responsible for compensating Native American monitors. If human remains are discovered, the NAHC should assign a Most Likely Descendent (MLD);
- (4) The landowner agrees to relinquish ownership of all Native American human remains and associated burial artifacts that are found within the project area, to the appropriate Native American MLD, as assigned by the NAHC, for proper treatment and disposition. The MLD will decide whether or not standard archaeological analysis will be allowed on human remains and associated artifacts from burials; and,
- (5) If paleontological resources are discovered during earth-moving activities, the construction crew shall immediately cease work in the vicinity of the find, and the City's Planning Manager shall be notified. A qualified paleontologist shall evaluate the resource and prepare a proposed mitigation plan in accordance with Society of Vertebrate Paleontology guidelines. The proposed mitigation plan may include a field survey of additional construction areas, sampling and data recovery procedures, museum storage coordination for any specimen recovered, and a report of findings. Recommendations determined by the lead agency to be necessary and feasible shall be implemented before construction activities can resume at the site where the paleontological resources were discovered. (Policy VII.F.3[c])

#### **Increased Demand for Storm Drainage:**

**SD-10.** Construction activities shall comply with the requirements of the City's Stormwater Management Plan under its municipal NPDES stormwater permit, and the State Water Resources Control Board's General Permit for Discharges of Storm Water Associated with Construction Activity. (Policy VI.G.3)

**SD-11.** For developments within a mapped 100-year floodplain, prepare studies that demonstrate how the development will comply with both the construction and post-construction programs under the City's municipal NPDES permit. No increased erosion or releases of other contaminants that would cause violations of the City's municipal NPDES permit should occur as a result of development. (Policy VI.G.4)

**SD-12.** Ensure that new development complies with the City of Modesto's *Stormwater Management Program: Guidance Manual for New Development Stormwater Quality Control Measures*. (Policy VI.G.5)

**SD-13.** Require new development to implement an appropriate selection of permanent pollution control measures in accordance with the City's implementation policies for the municipal NPDES stormwater permit. (Policy VI.G.6)

**SD-14.** Design development projects to preserve and, where possible, create or restore areas that provide important water quality benefits, such as riparian corridors, wetlands and buffers. Minimize disturbance of natural water bodies or natural drainage systems that might result from development, including road construction. (Policy VI.G.7)

**SD-15.** Integrate Low Impact Development principles into proposed development projects' design. Low Impact Development is a storm water management and land development strategy that promotes conservation and use of natural on-site features combined with engineered small-scale hydrologic devices. In designing development projects, minimize the amount of impervious surface in order to maximize on-site infiltration of stormwater runoff and minimize the potential for storm water runoff from the site. (Policy VI.G.8)

### **Flooding and Water Quality:**

**FWQ-11.** Construction activities shall comply with the requirements of the City's Storm Water Management Plan under its municipal NPDES stormwater permit, and the State Water Resources Control Board's General Permit for Discharges of Storm Water Associated with Construction Activity. (Policy VI.G.3)

**FWQ-12.** For developments within a mapped 100-year floodplain, prepare studies that demonstrate how the development will comply with the both the construction and post-construction programs under the City's municipal NPDES permit. No increased erosion or releases of other contaminants that would cause violations of the City's municipal NPDES permit should occur as a result of development. (Policy VI.G.4)

**FWQ-13.** Ensure that new development complies with the City of Modesto's Stormwater Management Program: Guidance Manual for New Development Stormwater Quality Control Measures. (Policy VI.G.5)

**FWQ-14.** Require new development to implement an appropriate selection of permanent pollution control measures in accordance with the City's implementation policies for the municipal NPDES stormwater permit. (Policy VI.G.6)

**FWQ-15.** Design development projects to preserve and, where possible, create or restore areas that provide important water quality benefits, such as riparian corridors, wetlands and buffers. Minimize disturbance of natural water bodies or natural drainage systems that might result from development, including road construction. (Policy VI.G.7)

**FWQ-16.** Integrate Low Impact Development principles into proposed development projects' design. Low Impact Development is a storm water management and land development strategy that promotes conservation and use of natural on-site features combined with engineered small-scale hydrologic devices. In designing development projects, minimize the amount of impervious surface in order to maximize on-site infiltration of stormwater runoff and minimize the potential for storm water runoff from the site. (Policy VI.G.8)

### **Increased Demand for Parks and Open Space:**

There are no standard / typical examples of general plan policies that would mitigate project-specific impacts for this category.

### **Increased Demand for Schools:**

There are no standard / typical examples of general plan policies that would mitigate project-specific impacts for this category.

### **Increased Demand for Police Services:**

There are no standard / typical examples of general plan policies that would mitigate project-specific impacts for this category.

**Increased Demand for Fire Services:**

There are no standard / typical examples of general plan policies that would mitigate project-specific impacts for this category.

**Generation of Solid Waste:**

There are no standard / typical examples of general plan policies that would mitigate project-specific impacts for this category.

**Generation of Hazardous Materials:**

**HM-3.** Comply with all existing federal and state laws which regulate the generation, transportation, storage, and disposal of hazardous materials. (Policy VI.M.1)

**HM-4.** Require that businesses and industries using hazardous material provide mitigation measures commensurate with the hazards they bring to the community, in accordance with the most current adopted edition of the Uniform Fire Code. (Policy VI.M.2)

**HM-5.** In the event that site inspection or construction activities uncover chemical contamination, underground storage tanks, abandoned drums, or other hazardous materials or wastes at a parcel, the inspection report preparer shall so notify the City. The City shall notify the County Health Services Department. Under the direction of these agencies, a site remediation plan would be prepared by the project applicant.

The plan would (1) specify measures to be taken to protect workers and the public from exposure to potential site hazards and (2) certify that the proposed remediation measures would clean up the wastes, dispose the wastes, and protect public health in accordance with federal, state, and local requirements. Permitting or work in the areas of potential hazard shall not proceed until the site remediation plan is on file with the City.

If a parcel is found to be contaminated to a level that prohibits the proposed use, the potential for reduction of the hazard should be evaluated. Site remediation is theoretically capable of removing hazards to levels sufficiently low to allow any use at the site. In practice, both the technical feasibility of the remediation and its cost (financial feasibility) should be evaluated in order to determine the overall feasibility of locating a specific use on a specific site. In some cases, it may require restriction to industrial use or a use that involves complete paving and covering of the parcel.

In accordance with OSHA requirements, any activity performed at a contaminated site shall be preceded by preparation of a separate site health and safety plan (prepared by the project applicant and filed with the City) for the protection of workers and the public. All reports, plans, and other documentation shall be added to the administrative record. (Policy VI.M.3)

**HM-6.** For each specific project that would generate hazardous waste, require as a condition of building permit approval that the project sponsor prepare a hazardous material transportation program. Passage through residential streets should be minimized and parking of waste haulers on residential streets should be prohibited. The City Fire Department shall review and approve the applicant's hazardous materials transportation program or, working with the applicant, modify it to the satisfaction of both parties. (Policy VI.M.4)

**HM-7.** Prior to the issuance of all building permits, identify the site in relation to all Comprehensive Environmental Response, Compensation and Liability Information System sites and to known or suspected uncontrolled or abandoned hazardous waste sites. All projects within 2,000 feet of these facilities should conduct hazardous materials studies as necessary to identify the type and extent of contamination, if any, and the extent of risk to human health and public safety. If necessary, a remedial action program should be developed and implemented as in UAGP Policy VI.M.3. (Policy VI.M.5)

**HM-8.** Applicants for building permits should determine that a site containing or formerly containing residences or farm buildings / structures has been fully investigated for the presence of hazardous materials or wastes prior to issuance of the permit. Investigation should consist of, at minimum, a Phase I environmental site assessment and a Phase II site assessment, if found necessary as a result of the Phase I assessment. The findings of the site assessment should be reported to the City and the County's Department of Environmental Resources. The appropriate remediation should occur prior to final occupancy of the approved development. (Policy VI.M.6)

**Geology, Soils, and Mineral Resources:**

There are no standard / typical examples of general plan policies that would mitigate project-specific impacts for this category.

**Energy:**

There are no standard / typical examples of general plan policies that would mitigate project-specific impacts for this category.

**Effects on Visual Resources:**

There are no standard / typical examples of general plan policies that would mitigate project-specific impacts for this category.

**Land Use and Planning:**

There are no standard / typical examples of general plan policies that would mitigate project-specific impacts for this category.

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2022-343**

**RESOLUTION AWARDING NON-EXCLUSIVE, NON-CONSENSUAL  
FRANCHISE TOWING SERVICE AGREEMENTS TO TWELVE (12) TOWING  
COMPANIES PURSUANT TO MODESTO MUNICIPAL CODE TITLE 11,  
CHAPTER 2, AND AUTHORIZING THE CITY MANAGER, OR HIS  
DESIGNEE, TO EXECUTE THE AGREEMENTS**

WHEREAS, the current non-exclusive, non-consensual franchise towing service agreement expires September 17, 2022; and

WHEREAS, on February 23, 2022, Request for Applications (RFA) 2122-43 for City Generated Non-Exclusive, Non-Consensual Franchise Towing Services was posted to Planet Bids with a closing date of March 22, 2022; and

WHEREAS, on March 22, 2022, applications were opened in the City Clerk's Office; and

WHEREAS, a total of twelve (12) applications were received and all met the requirements of the application process and all have completed and passed the required background and Department of Justice fingerprint process; and

WHEREAS, on June 28, 2022, the City Council, by Resolution No. 2022-289, accepted the City Manager's recommendation to award Non-Exclusive, Non-Consensual Franchise Towing Services agreements to the twelve (12) applicants listed in **Attachment A** and schedule a public hearing in accordance with Modesto Municipal Code Title 11, Chapter 2; and

WHEREAS, the anticipated start date of the agreements is September 18, 2022.; and

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby awards Non-Exclusive, Non-Consensual Franchise Towing Services

agreements to the twelve (12) towing companies listed in **Attachment A** to this Resolution.

BE IT FURTHER RESOLVED, that the City Manager, or his designee, is hereby authorized to execute the agreements, in a form approved by the City Attorney.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 9th day of August, 2022, by Councilmember Escutia-Braaton, who moved its adoption, which motion being duly seconded by Councilmember Wright, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Escutia-Braaton, Kenoyer, Madrigal, Ricci, Wright, Mayor Zwahlen

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST:   
DIANE NAYARÉS-PÉREZ, CMC,  
City Clerk

(SEAL)

APPROVED AS TO FORM:

BY:   
JOSE M. SANCHEZ, City Attorney

## **ATTACHMENT A**

The twelve (12) Non-Exclusive, Non-Consensual Franchise Towing Services applicants:

Four Star Recovery and Towing  
Central Valley Autobody and Tow  
Anderson's Tow  
City Tow  
E-Towing  
Ceres Pro Tow  
Scenic Towing & Auto Care/Mike's Tow  
Tow One, Inc.  
Myers Towing, Inc.  
Super Towing  
Ramont's Tow Service  
Dizney & Wise Towing

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2022 -344**

**RESOLUTION APPROVING THE APPLICATION OF MACINTOSH  
TRANSPORT LLC, AND AUTHORIZING THE ISSUANCE OF A PERMIT TO  
OPERATE AS A NON-EMERGENCY MEDICAL TRANSPORT COMPANY IN  
THE CITY OF MODESTO**

WHEREAS, MacIntosh Transport LLC has submitted an application to provide non-emergency medical transport services within the City of Modesto, and

WHEREAS, MacIntosh Transport LLC has paid the required \$1,000 filing fee and has provided all necessary information as outlined in Modesto Municipal Code Section 3-9.03-3-9.04, and

WHEREAS, the Modesto Police Department has completed background investigations regarding MacIntosh Transport LLC. per Modesto Municipal Code Section 3-9.05, and

WHEREAS, Council approval is required for MacIntosh Transport LLC to function as a non-emergency medical transport service provider within the City of Modesto, and

WHEREAS, a duly noticed public hearing was held by the City Council of the City of Modesto on August 9, 2022, at 5:30 p.m. in the Tenth Street Place Chambers located at 1010 Tenth Street, Modesto, California, to consider authorizing the issuance of a permit to MacIntosh Transport LLC for non-emergency medical transport service within the City of Modesto, and

WHEREAS, Modesto City Council finds that MacIntosh Transport LLC will serve the public convenience and necessity requirements.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the application of MacIntosh Transport LLC and issues MacIntosh Transport LLC a permit to operate as a non-emergency medical transport company in the City of Modesto.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 9th day of August, 2022, by Councilmember Wright, who moved its adoption, which motion being duly seconded by Mayor Zwahlen, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Escutia-Braaton, Kenoyer, Madrigal, Ricci, Wright, Mayor Zwahlen

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST:   
DIANE NAYARES-PEREZ, CMC,  
City Clerk

(SEAL)

APPROVED AS TO FORM:

BY:   
JOSE M. SANCHEZ, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2022-345**

**RESOLUTION ACCEPTING THE RESIGNATION OF SARAH KASHEFI  
FROM THE CITY OF MODESTO BLIGHT ABATEMENT ADVISORY  
COMMITTEE**

WHEREAS, Sarah Kashefi was appointed to serve as a member of the Blight Abatement Advisory Committee on April 13, 2021, by City Council Resolution 2021-124; and

WHEREAS, Sarah Kashefi tendered her resignation from the Blight Abatement Advisory Committee, effective July 22, 2022.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby accepts the resignation of Sarah Kashefi from the Blight Abatement

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 23rd day of August, 2022, by Councilmember Kenoyer, who moved its adoption, which motion being duly seconded by Councilmember Escutia-Braaton, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Escutia-Braaton, Kenoyer, Madrigal, Ricci, Wright, Mayor Zwahlen

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST:   
DIANE NAYARES-PEREZ, CMC,  
City Clerk

(SEAL)

APPROVED AS TO FORM:

BY:   
JOSE M. SANCHEZ, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2022-346**

**RESOLUTION CONTINUING TO AUTHORIZE REMOTE  
TELECONFERENCE MEETINGS OF THE CITY OF MODESTO PURSUANT  
TO ASSEMBLY BILL 361**

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

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

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

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

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

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

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

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

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

WHEREAS, on September 28, 2021, the City Council adopted Resolution No. 2021-370 authorizing remote teleconference meetings pursuant to AB361 (Government Code section 54953(e)); and

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

WHEREAS, the City Council has considered the circumstances of the Governor’s state of emergency proclamation pursuant to Government Code section 8625, which remains active; and

WHEREAS, on March 8, 2022, the County of Stanislaus Board of Supervisors terminated the Declaration of a Local Health Emergency that was issued on March 11, 2020; and

WHEREAS, the Stanislaus County Public Health Services Agency still strongly recommends community members to wear a mask while in “any indoor public space” along with other recommendations intended to promote social distancing measures; and

WHEREAS, the City Council, acting for itself and for the benefit of all of the City’s commissions, committees, and other bodies (collectively referred to as the “Legislative Bodies”), does hereby find that the Legislative Bodies shall continue to conduct their meetings without compliance with Government Code section 54953(b)(3), as authorized by Government Code section 54953(e), and that the Legislative Bodies shall continue to comply with the requirements to provide the public with access to the meetings as prescribed in Government Code section 54953(e)(2) as a consequence of the ongoing state of emergency and the continued social distancing measures required by local officials.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF MODESTO DOES HEREBY RESOLVE AS FOLLOWS:

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

Section 2. Consideration of State of Emergency. The City Council has considered the conditions of the state of emergency declared pursuant to Government Code section 8625, and determined that such emergency conditions continue to be present in the City.

Section 3. Continued Social Distancing Measures by State and Local Officials.

The City Council finds that the County of Stanislaus Health Officer's recommended measures to promote social distancing remain in effect.

Section 4. Remote Teleconference Meetings. The City Council finds that the conditions continue to exist pursuant to Government Code section 54953(e)(3) to allow Legislative Bodies to use teleconferencing to hold public meetings in accordance with Government Code section 54953(e)(2) to ensure members of the public have continued access to safely observe and participate in local government meetings.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 23rd day of August, 2022, by Councilmember Kenoyer, who moved its adoption, which motion being duly seconded by Vice-Mayor Wright, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Escutia-Braaton, Kenoyer, Madrigal, Ricci, Wright, Mayor Zwahlen

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST:   
DIANE NAYARES-PEREZ, CMC,  
City Clerk

(SEAL)

APPROVED AS TO FORM:

BY:   
JOSE M. SANCHEZ, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2022-347**

**RESOLUTION APPROVING A FOURTH AMENDMENT TO THE LEGAL SERVICES AGREEMENT WITH ALLEN, GLAESSNER, HAZELWOOD & WERTH, LLP IN THE AMOUNT OF \$50,000, FOR A TOTAL AGREEMENT AMOUNT NOT TO EXCEED \$645,000, FOR CONTINUED REPRESENTATION AND AUTHORIZING THE CITY MANAGER OR HIS DESIGNEE, TO EXECUTE THE AMENDMENT**

WHEREAS, on February 2, 2019, the City entered into a standard Legal Services Agreement with Allen, Glaessner, Hazelwood & Werth, LLP in the amount of \$30,000 for representation in a police litigation matter; and

WHEREAS, this agreement was amended to include additional police litigation and increase the budget by Resolution No. 2019-366, Resolution No. 2020-364, and most recently by Resolution No. 2021-145, Council approved a Third Amendment to the Legal Services Agreement to increase the agreement budget in the amount of \$200,000, for a total not to exceed \$595,000; and

WHEREAS, the City Attorney's office has drafted a Fourth Amendment to the Legal Services agreement with Allen, Glaessner, Hazelwood & Werth, LLP for continued services.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves a Fourth Amendment to the Legal Services Agreement with Allen, Glaessner, Hazelwood & Werth, LLP in the amount of \$50,000, for a total agreement amount not to exceed \$645,000, as provided in **Exhibit A attached** hereto and incorporated herein, and further authorizes the City Attorney to execute such agreement in a form substantially similar to **Exhibit A**.

BE IT FURTHER RESOLVED, that the City Manager or his designee, are hereby authorized to execute the amendment, in a form approved by the City Attorney.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 23rd day of August, 2022, by Councilmember Kenoyer, who moved its adoption, which motion being duly seconded by Vice-Mayor Wright, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Escutia-Braaton, Kenoyer, Madrigal, Ricci, Wright, Mayor Zwahlen

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST:   
DIANE NAYARES-PEREZ, CMC,  
City Clerk

(SEAL)

APPROVED AS TO FORM:

BY:   
JOSE M. SANCHEZ, City Attorney

## FOURTH AMENDMENT TO LEGAL SERVICES AGREEMENT

This Fourth Amendment to the Legal Services (this “**Fourth Amendment**”), is made and entered into on 23<sup>rd</sup> day of August 2022 (“**Effective Date**”), by and between the **CITY OF MODESTO**, a California Municipal Corporation (“**City**”), and **ALLEN, GLAESSNER, HAZELWOOD & WERTH, LLP** (“**Attorney**”), located at 180 Montgomery Street, Suite 1200, San Francisco, California 94104. City and Attorney are hereinafter collectively referred to as the “**Parties**,” and singularly as “**Party**”.

### RECITALS

**WHEREAS**, City and Attorney entered into a Legal Services Agreement (“**Agreement**”) to provide litigation, trial counsel, legal advice, representation and assistance to City in police matters; and

**WHEREAS**, this agreement was amended to increase the budget by Resolution No. 2019-366, Resolution No. 2020-364, and most recently by Resolution No. 2021-145, Council approved a Third Amendment to the Legal Services Agreement to increase the agreement budget in the amount of \$200,000, for a total not to exceed \$595,000; and

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

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

**WHEREAS**, City and Attorney desire to amend the Agreement for further service by increasing the previously approved amount of fees from \$595,000 to \$645,000.

**NOW, THEREFORE**, it is hereby agreed that the Legal Services Agreement between the City of Modesto and Allen, Glaessner, Hazelwood & Werth, LLP dated February 2, 2019, and amended by Resolution No. 2019-366, 2020-364 and 2021-145, is amended as follows:

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

“The total of all fees paid to Attorney for the performance of all services set forth in Section 1 (hereafter the “**Service**”), and for all authorized Reimbursable Expenses (as defined hereafter), shall not exceed a total sum of six hundred forty-five thousand dollars (\$645,000).”

2. **Entire Agreement.** The parties to this Fourth Amendment understand and agree that except as stated herein all terms and conditions of the original Agreement, dated February 2, 2019, remain in full force and effect to the extent they are not in conflict with this Fourth Amendment. This document, including all exhibits, contain the entire amendment to the Agreement between the Parties and supersedes whatever oral or written understanding they may

have had prior to the execution of this Fourth Amendment. No alteration to the terms of this Fourth Amendment shall be valid unless approved in writing by Attorney and by City, in accordance with applicable provision of the Modesto City Code.

3. **Authority.** The person signing this Fourth Amendment for Attorney hereby represents and warrants that he/she is fully authorized to sign this Fourth Amendment on behalf of Attorney and to bind Attorney to the performance of its obligations hereunder.

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

**CITY OF MODESTO,**  
A Municipal Corporation

By: \_\_\_\_\_

Print name: Joseph P. Lopez

Title: City Manager

**APPROVED TO AS FORM:**

\_\_\_\_\_  
Jose M. Sanchez, City Attorney

**ATTEST:**

\_\_\_\_\_  
Diane Nayares-Perez, City Clerk

\_\_\_\_\_  
Joe Rodriguez, Risk Manager

**[Signatures Continued on Next Page.]**

**ATTORNEY:  
ALLEN, GLAESSNER, HAZELWOOD & WERTH, LLP**

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Federal I.D. No.

---

State I.D. No.

---

City of Modesto Business Op. Tax Cert. No.

TYPE OF BUSINESS ENTITY (*check one*):

- Individual/Sole Proprietor
- Partnership
- Corporation
- Limited Liability Company
- Other (*please specify:* \_\_\_\_\_)

---

**Signature of Authorized Person**

---

Title

---

Additional Signature (*if required*)

---

Title

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2022-348**

**RESOLUTION APPROVING A SECOND AMENDMENT TO THE  
CONSTRUCTION MANAGEMENT SERVICES AGREEMENT WITH WSP USA  
INC. FOR THE STATE ROUTE 132 WEST FREEWAY/EXPRESSWAY - PHASE  
1 PROJECT, INCREASING THE AGREEMENT AMOUNT BY \$621,745 PLUS  
\$62,175 IN ADDITIONAL SERVICES, IF NEEDED, FROM \$11,764,074 FOR A  
TOTAL AMOUNT NOT TO EXCEED \$12,447,994, AND AUTHORIZING THE  
CITY MANAGER, OR HIS DESIGNEE TO EXECUTE THE SECOND  
AMENDMENT TO AGREEMENT**

WHEREAS, the purpose of the State Route 132 West Freeway/Expressway - Phase 1 Project (Project) is to improve regional and interregional circulation, relieve traffic congestion along existing State Route 132, and enhance safety and operations for the existing and proposed transportation network; and

WHEREAS, on June 25, 2019, by Resolution No. 2019-295, City Council approved an Agreement with WSP USA Inc. for Construction Management Services in the amount of \$8,973,533, plus \$897,353 in additional services, for a total amount of \$9,870,886; and

WHEREAS, on September 28, 2021, by Resolution 2021-372, City Council approved the First Amendment to the Agreement with WSP USA Inc. for Construction Management Services in the amount of \$1,721,080, plus \$172,108 in additional services, for a total amount of \$1,893,188; and

WHEREAS, due to several crucial changes related to the Modesto Irrigation District (MID) Access Road, Carpenter Road Reconfiguration, and the Hot Mix Asphalt (HMA) Overlay of Kansas Avenue between N. Carpenter Road and N. Dakota Avenue, the Project is estimated to extend beyond the current contract completion date of June 20,

2022 to September 30, 2022, with Project Closeout being completed in December of this year; and

WHEREAS, on June 6, 2022, WSP submitted a Second Amendment Request to the Construction Management Services Agreement in the amount of \$621,745.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the Second Amendment to the Construction Management Services Agreement with WSP USA Inc. for the State Route 132 West Freeway/Expressway - Phase 1 Project, increasing the agreement amount by \$621,745 plus \$62,175 additional services, if needed, from \$11,764,074 for a total not to exceed amount of \$12,447,994.

BE IT FURTHER RESOLVED, that the City Manager, or his designee, is authorized to execute the Second Amendment to the Agreement in a form approved by the City Attorney.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 23rd day of August, 2022, by Vice-Mayor Wright, who moved its adoption, which motion being duly seconded by Councilmember Escutia-Braaton, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Escutia-Braaton, Kenoyer, Madrigal, Ricci, Wright, Mayor Zwahlen

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST:   
DIANE NAYARES-PEREZ, CMC,  
City Clerk

(SEAL)

APPROVED AS TO FORM:

BY:   
JOSE M. SANCHEZ, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2022-349**

**RESOLUTION APPROVING A SIXTH AMENDMENT TO THE  
PROFESSIONAL DESIGN SERVICES AGREEMENT FOR THE STATE ROUTE  
132 WEST FREEWAY/EXPRESSWAY - PHASE 1 PROJECT WITH DOKKEN  
ENGINEERING, INCREASING THE AGREEMENT AMOUNT BY \$154,858  
FROM \$9,245,225 TO A TOTAL AMOUNT NOT TO EXCEED \$9,400,083, AND  
AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE  
THE SIXTH AMENDMENT**

WHEREAS, the purpose of the State Route 132 West Freeway/Expressway - Phase 1 Project is to improve regional and interregional circulation, relieve traffic congestion along existing State Route 132, and enhance safety and operations for the existing and proposed transportation network; and

WHEREAS, on May 2, 2017, by Resolution No. 2017-174, the City Council approved an agreement with Dokken Engineering for professional design services in the amount of \$6,400,000, plus \$600,000 for additional services, for a total contract amount of \$7,000,000; and

WHEREAS, on January 22, 2019, by Resolution No. 2019-01, the City Council approved a First Amendment to the agreement with Dokken Engineering in the amount of \$344,096, for a total contract amount of \$7,344,096; and

WHEREAS, on May 7, 2019, by Resolution No. 2019-208, the City Council approved a Second Amendment to the agreement with Dokken Engineering in the amount of \$144,422, for a total contract amount of \$7,488,518; and

WHEREAS, on September 24, 2019, by Resolution No. 2019-441, the City Council approved a Third Amendment to the agreement with Dokken Engineering in the amount of \$1,363,210, for a total contract amount of \$8,851,728; and

WHEREAS, on December 8, 2020, by Resolution No. 2020-504, the City Council approved a Fourth Amendment to the agreement with Dokken Engineering in the amount of \$304,270, for a total contract amount of \$9,155,998; and

WHEREAS, on April 5, 2022, by Resolution No. 2022-147, the City Council approved a Fifth Amendment to the agreement with Dokken Engineering in the amount of \$89,227, for a total contract amount of \$9,245,225; and

WHEREAS, on June 1, 2022, Dokken Engineering submitted to the City a budget augmentation for additional tasks in the amount of \$154,858, for a total contract amount of \$9,400,083; and

WHEREAS, the City opened bids for the construction of State Route 132 West Freeway/Expressway – Phase I Project on August 20, 2019; and

WHEREAS, due to the complexity of the project, design support services are required during the construction of the project to provide technical support to the construction manager; and

WHEREAS, as the project construction has developed, additional design support services have been identified to complete tasks that were not known during final design; and

WHEREAS, the additional services to be provided include continuation of design services after estimated construction completion date, Kansas Avenue Overlay, and BCS As-builts; and

WHEREAS, Staff recommends approving the Sixth Amendment with Dokken Engineering to assist the successful completion of the SR132 West Freeway/Expressway – Phase 1 Project.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the Sixth Amendment to the professional design services agreement for the State Route 132 West Freeway/Expressway - Phase 1 Project with Dokken Engineering, increasing the agreement amount by \$154,858 from \$9,245,225 to a total not to exceed amount of \$9,400,083.

BE IT FURTHER RESOLVED, that the City Manager, or his designee, is authorized to execute the Sixth Amendment, in a form approved by the City Attorney.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 23rd day of August, 2022, by Vice-Mayor Wright, who moved its adoption, which motion being duly seconded by Councilmember Kenoyer, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Escutia-Braaton, Kenoyer, Madrigal, Ricci, Wright, Mayor Zwahlen

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST:

  
DIANE NAYARES-PEREZ, CMC,  
City Clerk

(SEAL)

APPROVED AS TO FORM:

BY:   
JOSE M. SANCHEZ, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2022-350**

**RESOLUTION APPROVING A WILL SERVE LETTER AND OUTSIDE SERVICE AGREEMENT TO CONNECT TO THE CITY OF MODESTO'S EXISTING SEWER SYSTEM FOR THE PROPERTY LOCATED AT 1420 ELSIE STREET (APN: 037-030-059), AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO SIGN THE WILL SERVE LETTER AND EXECUTE THE OUTSIDE SERVICE AGREEMENT**

WHEREAS, Jose Orozco Sandoval, an unmarried man, owns a residential property located at 1420 Elsie Street which is located outside of Modesto City Limits and inside the City's Sphere of Influence; and

WHEREAS, the property located at 1420 Elsie Street, is not connected to City's sewer system and is requesting a sewer connection for a new facility; and

WHEREAS, on November 25, 2014, City Council approved Resolution No. 2014-473 amending City Council Policy 5.002; and

WHEREAS, on December 9, 2014, City Council approved adoption of Ordinance No.3612-C.S. amending City of Modesto Municipal Code Section 11-1.05; and

WHEREAS both of these amendments included language allowing the City Manager, upon the recommendation of the Director responsible for utility system planning to approve standard agreements of service for extension of sewer services into certain unincorporated areas without City Council approval; and

WHEREAS, the property located at 1420 Elsie Street, is not located within one of those designated areas and therefore requires City Council approval prior to allowing the sewer connection; and

WHEREAS, City staff has completed an analysis and determined that it is reasonable for the City of Modesto to provide sewer service to this property; and

WHEREAS, consistent with adopted LAFCO Policy 15, the extension of sewer service is proposed to remedy a health and safety concern in an area with an existing sewer system; and

WHEREAS, the sewer connection fees shall be paid and associated permits will be obtained prior to connecting to the City sewer system; and

WHEREAS, the property owner has executed an Outside Service Agreement for sewer service with the City as required to receive sewer service outside the City limits.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the Will Serve Letter and Outside Service Agreement for sewer service for the property located at 1420 Elsie Street (APN: 037-030-059) in Modesto.

BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to approve the Will Serve Letter and execute the Outside Service Agreement for sewer service.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 23rd day of August, 2022, by Councilmember Kenoyer, who moved its adoption, which motion being duly seconded by Vice-Mayor Wright, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Escutia-Braaton, Kenoyer, Madrigal, Ricci, Wright, Mayor Zwahlen

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST:   
DIANE NAYARES-PEREZ, CMC,  
City Clerk

(SEAL)

APPROVED AS TO FORM:

BY:   
JOSE M. SANCHEZ, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2022-351**

**RESOLUTION APPROVING THE AMENDED AND RESTATED  
MEMORANDUM OF AGREEMENT FOR THE PRELIMINARY ENGINEERING  
INCLUDING FINAL DESIGN PHASE OF THE 7TH STREET BRIDGE  
PROJECT WITH STANISLAUS COUNTY INCREASING THE CITY'S SHARE  
BY \$359,278, FOR A NEW TOTAL AMOUNT OF \$703,778, AND  
AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE TO EXECUTE  
THE AGREEMENT**

WHEREAS, the Stanislaus County Department of Public Works (County), in cooperation with the City of Modesto (City), the California Department of Transportation (Caltrans), and the Federal Highway Administration (FHWA) have undertaken a project to replace the historic 7th Street Bridge over the Tuolumne River in order to correct structural and hydraulic deficiencies, increase the capacity of the 7th Street corridor, and improve safety for vehicles, bicycles, and pedestrians; and

WHEREAS, the historic 7th Street Bridge over the Tuolumne River was built in 1916 by Stanislaus County and consists of a series of “canticrete” type trusses supported on reinforced concrete piers and abutments all founded on concrete or timber piling; and

WHEREAS, the entire bridge span is approximately 1,170 feet in length and the Average Daily Traffic (ADT) volume is approximately 15,700 vehicles per day; and

WHEREAS, the bridge is the lowest rated bridge within the eight counties in Caltrans District 10 and has a Sufficiency Rating of 2, on a scale of 1 to 100; and

WHEREAS, although the bridge is currently considered structurally sound, there is significant spalling, advanced signs of alkali silica reaction, exposed and deteriorating steel reinforcing and considerable deflection at the cantilevered sections; and

WHEREAS, the bridge is listed as Structurally Deficient and has been weight restricted to four tons gross load since 1979 and restricted from legal truck load weights since 1937; and

WHEREAS, the Project is partially funded with Federal Highway Bridge Program (HBP) funds and will include replacement of the existing bridge, safety improvements for motorists, pedestrians, and bicyclists, curb ramps, raised center median/refuge, street lighting, and incidental roadway resurfacing; and

WHEREAS, the Project will also include modifications at the intersections of 7th and B Streets at Tuolumne Boulevard and Crows Landing Road at 7th Street; and

WHEREAS, County and the City entered into a Memorandum of Agreement (MOA) for Preliminary Engineering, which was approved by the governing bodies on March 15 and April 5, 2011, respectively; and

WHEREAS, an Amended and Restated MOA, to add Final Design, was approved by the County and City on May 7 and 21, 2019, respectively; and

WHEREAS, the MOA split the local match portion of the Project (11.47%) equally between the County and the City; and

WHEREAS, at the time of the May 2019 MOA, the actual design cost was not finalized, and the MOA was based on an estimate; and

WHEREAS, since the 2019 MOA, some costs which are subject to the MOA have been updated and therefore an amendment to the MOA is required; and

WHEREAS, the purpose of this request is to provide funding support for Final Design activities necessary to generate construction Plans, Specifications, and Estimates (PS&E) so that construction can commence thereafter; and

WHEREAS, the result of the amended MOA is that the City to provide an additional \$359,278 towards the total project funding and represents the City's revised share of the effort necessary to complete the Final Design for the Project; and

WHEREAS, this MOA request also includes funding support for a waterline design requested by the City Utilities Department to be included within the bridge structure; and

WHEREAS, the amount to provide the necessary design for the City's waterline is estimated at \$97,985; and

WHEREAS, the County has agreed to pay \$18,450 for invoice cost tracking; and

WHEREAS, all other estimated design costs of this request are intended to be shared equally between the City and County; and

WHEREAS, Staff recommends approving the amended MOA to provide an additional \$359,278 towards the total project funding.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the Amended and Restated Memorandum of Agreement for the Preliminary Engineering including Final Design Phase of the 7th Street Bridge Project with Stanislaus County increasing the City's share by \$359,278, for a new total amount of \$703,778.

BE IT FURTHER RESOLVED, that the City Manager, or his designee, is hereby authorized to execute the Agreement, in a form approved by the City Attorney.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 23rd day of August, 2022, by Councilmember Kenoyer, who moved its adoption, which motion being duly seconded by Vice-Mayor Wright, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Escutia-Braaton, Kenoyer, Madrigal, Ricci, Wright, Mayor Zwahlen

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST:   
DIANE NAYARES-PEREZ, CMC,  
City Clerk

(SEAL)

APPROVED AS TO FORM:

BY:   
JOSE M. SANCHEZ, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2022-352**

**RESOLUTION AMENDING THE FISCAL YEAR 2022-2023 CAPITAL  
IMPROVEMENT PROGRAM (CIP) BUDGET, PROJECT #100586 IN THE  
AMOUNT OF \$261,293 TO FUND THE AMENDED AND RESTATED  
MEMORANDUM OF AGREEMENT AND AUTHORIZING THE CITY  
MANAGER, OR HIS DESIGNEE, TO TAKE THE NECESSARY STEPS TO  
IMPLEMENT THE PROVISIONS OF THIS RESOLUTION**

WHEREAS, the Stanislaus County Department of Public Works (County), in cooperation with the City of Modesto (City), the California Department of Transportation (Caltrans), and the Federal Highway Administration (FHWA) have undertaken a project to replace the historic 7th Street Bridge over the Tuolumne River in order to correct structural and hydraulic deficiencies, increase the capacity of the 7th Street corridor, and improve safety for vehicles, bicycles, and pedestrians; and

WHEREAS, the Project is partially funded with Federal Highway Bridge Program (HBP) funds and will include replacement of the existing bridge, safety improvements for motorists, pedestrians, and bicyclists, curb ramps, raised center median/refuge, street lighting, and incidental roadway resurfacing; and

WHEREAS, the Project will also include modifications at the intersections of 7th and B Streets at Tuolumne Boulevard and Crows Landing Road at 7th Street; and

WHEREAS, County and the City entered into a Memorandum of Agreement (MOA) for Preliminary Engineering, which was approved by the governing bodies on March 15 and April 5, 2011, respectively; and

WHEREAS, an Amended and Restated MOA, to add Final Design, was approved by the County and City on May 7 and 21, 2019, respectively; and

WHEREAS, the MOA split the local match portion of the Project (11.47%) equally

between the County and the City; and

WHEREAS, additional funding in the amount of \$359,278 is needed for the City's share necessary to complete the final design for the project; and

WHEREAS, \$97,985 of the additional funding will come from the Water Fund and is currently budget in project #100933 and the remaining \$261,293 from the Streets Capital Facility Fee Fund; and

WHEREAS, the City Council shall consider amending the Capital Improvement Program (CIP) budget Project #100586 in the amount of \$261,293 to fund the amended and restated memorandum of agreement.

NOW, THEREFORE, BE IT RESOLVED, that the Council of the City of Modesto that it hereby amends the Fiscal Year 2022-2023 Capital Improvement Program (CIP) Budget Project #100586 in the amount of \$261,293 to fund the amended and restated memorandum of agreement.

BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to implement the provisions of this resolution.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 23rd day of August, 2022, by Councilmember Kenoyer, who moved its adoption, which motion being duly seconded by Vice-Mayor Wright, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Escutia-Braaton, Kenoyer, Madrigal, Ricci, Wright, Mayor Zwahlen

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST:   
DIANE NAYARES-PEREZ, CMC,  
City Clerk

(SEAL)

APPROVED AS TO FORM:

BY:   
JOSE M. SANCHEZ, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2022-353**

**RESOLUTION APPROVING THE COMPETITIVE BIDDING PROCESS FROM STATE DEPARTMENT OF GENERAL SERVICES (DGS) WITH CROMER MATERIAL HANDLING, PASADENA, CA FOR FOUR (4) FORKLIFTS FOR A TOTAL AMOUNT NOT TO EXCEED \$155,539; AND AUTHORIZING THE PURCHASING MANAGER, OR HER DESIGNEE, TO ISSUE THE PURCHASE ORDER**

WHEREAS, every year, City vehicles and equipment are individually evaluated based on their age, condition, mileage and maintenance costs); and

WHEREAS, once a unit is replaced and placed into City service, funds for its replacement are charged out as monthly recurring charges until the end of the unit's service life; and

WHEREAS, on April 12, 2019 the State of California issued Invitation for Bid #12432 on the State Department of General Services (DGS) website for a Statewide contract for Forklifts and Pallet Trucks/Jacks for a two (2) year agreement with three (3) one-year extension options; and

WHEREAS, on April 26, 2019, proposals were formally opened; and

WHEREAS, five (5) bids were received and based on the lowest responsive and responsible bidder an agreement for forklifts was awarded to three (3) bidders; Cromer Material Handling, RKU Distributing Inc. and Southern CA Material Handling; and

WHEREAS, the use of state contracts are cooperative agreements to streamline the procurement process by developing RFBs or RFP's for national competitive solicitations that meet or exceed local requirements; and

WHEREAS, Modesto Municipal Code Section 8-3.203 generally requires all purchases that meet or exceed \$50,000 for material, equipment or contractual services to

be formally bid. However, exceptions to the formal bidding process are granted in MMC 8-3.204(d) “Where the Purchasing Manager, in her discretion, determines that a process other than the formal bid procedure set for 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, MMC 8-3.202(h) encourages the Purchasing Manager to join with the State of California or other units of government in cooperative purchasing plans when the best cost savings interest of the City would be served.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the competitive bidding process from State Department of General Services (DGS) with Cromer Material Handling, Pasadena, CA for four (4) Forklifts for a total amount not to exceed \$155,539.

BE IT FURTHER RESOLVED that the Purchasing Manager, or her designee, is hereby authorized to execute the Purchase Order.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 23rd day of August, 2022, by Councilmember Kenoyer, who moved its adoption, which motion being duly seconded by Vice-Mayor Wright, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Escutia-Braaton, Kenoyer, Madrigal, Ricci, Wright, Mayor Zwahlen

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST:   
DIANE NAYARES-PEREZ, CMC,  
City Clerk

(SEAL)

APPROVED AS TO FORM:

BY:   
JOSE M. SANCHEZ, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2022-354**

**RESOLUTION APPROVING THE AWARD OF BID FOR SIX (6) ONE-TON TRUCKS TO TOWNE FORD SALES, REDWOOD CITY, CA FOR A TOTAL AMOUNT NOT TO EXCEED \$536,924; AND AUTHORIZING THE PURCHASING MANAGER, OR HER DESIGNEE, TO ISSUE THE PURCHASE ORDER.**

WHEREAS, these vehicles are used by various Divisions to carry out their normal service to the community hauling parts and supplies to make repairs to infrastructure around the City of Modesto.; and

WHEREAS, Modesto Municipal Code Section 8-3.203 requires all purchases, which meet or exceed \$50,000 for material, equipment or contractual services to be formally bid; and

WHEREAS, on June 10, 2022, the Purchasing Division issued Request for Bids (RFB) 2122-50 for six (6) One-ton trucks on the City’s website under commodity codes<sup>1</sup>; and

WHEREAS, fourteen (14) companies downloaded the RFB document, one vendor chose to submit a bid, there was no local bid received; and

WHEREAS, on July 19, 2022, bids were formally opened in the City Clerk’s office and Towne Ford, Redwood City, CA, was the only responsive and responsible bidder; and

WHEREAS, based on providing the only responsive and responsible bid which conforms to the Modesto Municipal Code, Section 8-3.203 City staff recommends the award of bid for six (6) One-ton trucks to Towne Ford, Redwood City, CA; and

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<sup>1</sup> 06590 – Van Truck Bodies, 07047 – Trucks, Cab and Chassis, 07048 – Trucks (One-ton and less capacity), and 07051 – Trucks (Over one-ton capacity)

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the award of bid for six (6) One-Ton Trucks to Towne Ford Sales, Redwood City, CA for a total amount not to exceed \$536,924.

BE IT FURTHER RESOLVED, that the Purchasing Manager, or her designee, is hereby authorized to execute the purchase order.


The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 23rd day of August, 2022, by Councilmember Kenoyer, who moved its adoption, which motion being duly seconded by Vice-Mayor Wright, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Escutia-Braaton, Kenoyer, Madrigal, Ricci, Wright, Mayor Zwahlen

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST:

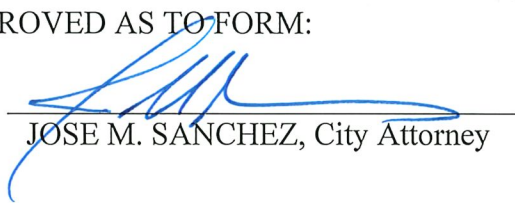


DIANE NAYARES PEREZ, CMC,  
City Clerk

(SEAL)

APPROVED AS TO FORM:

BY:

  
JOSE M. SANCHEZ, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2022-355**

**RESOLUTION APPROVING THE AWARD OF BID FOR SEVEN (7) ONE-TON  
STAKE SIDE DUMP TRUCKS TO TOWNE FORD SALES, REDWOOD CITY,  
CA FOR A TOTAL AMOUNT NOT TO EXCEED \$602,868; AND  
AUTHORIZING THE PURCHASING MANAGER, OR HER DESIGNEE, TO  
ISSUE THE PURCHASE ORDER**

WHEREAS, these vehicles are all used by the Parks Division in their normal duties maintaining the various parks around the City of Modesto; and

WHEREAS, Modesto Municipal Code Section 8-3.203 requires all purchases, which meet or exceed \$50,000 for material, equipment or contractual services to be formally bid; and

WHEREAS, on June 10, 2022, the Purchasing Division issued Request for Bids (RFB) 1819-49RB2 for seven (7) One-ton Stake Side Dump trucks on the City's website under commodity codes<sup>1</sup> ; and

WHEREAS, eighteen (18) companies downloaded the RFB document, two vendors chose to submit a bid, there was no local bids received; and

WHEREAS, on July 19, 2022, bids were formally opened in the City Clerk's office and Towne Ford, Redwood City, CA, was the lowest responsive and responsible bidder; and

WHEREAS, based on providing the only responsive and responsible bid which conforms to the Modesto Municipal Code, Section 8-3.203 City staff recommends the award of bid for seven (7) One-ton Stake Side Dump trucks to Towne Ford, Redwood City, CA.

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<sup>1</sup> 06590 – Van Truck Bodies, 07047 – Trucks, Cab and Chassis, 07048 – Trucks (One-ton and less capacity), and 07051 – Trucks (Over one-ton capacity)

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the award of bid for seven (7) One-Ton Stake Side Dump Trucks to Towne Ford Sales, Redwood City, CA for a total amount not to exceed \$602,868.

BE IT FURTHER RESOLVED, that the Purchasing Manager, or her designee, is hereby authorized to execute the purchase order.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 23rd day of August, 2022, by Councilmember Kenoyer, who moved its adoption, which motion being duly seconded by Vice-Mayor Wright, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Escutia-Braaton, Kenoyer, Madrigal, Ricci, Wright, Mayor Zwahlen

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST:   
DIANE NAYARÉS-PÉREZ, CMC,  
City Clerk

(SEAL)

APPROVED AS TO FORM:

BY:   
JOSE M. SANCHEZ, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2022-356**

**RESOLUTION APPROVING AN INCREASE TO THE AMOUNT FOR THE PURCHASE OF TWO (2) PACKER TRUCKS TO WESTERN TRUCK CENTER, STOCKTON, CA BY \$13,282, INCREASING THE PURCHASE ORDER FROM \$501,078 TO A NEW TOTAL AMOUNT NOT TO EXCEED \$514,360, AND AUTHORIZING THE PURCHASING MANAGER, OR HER DESIGNEE, TO UPDATE THE PURCHASE ORDER**

WHEREAS, on February 26, 2021, the Purchasing Division issued Purchase Order 197618 to Western Truck Center, Stockton, CA for the purchase of two (2) Packer Trucks in the amount of \$501,078; and

WHEREAS, in early 2022, the vendor informed Purchasing the order could not be placed at the time of receiving the Purchase Order due to manufacture delays related to the current COVID-19 pandemic; and

WHEREAS, when ordering was able to be completed it was discovered that they could no longer hold the bid price because of continued price increases from manufacturers, steel surcharges, semiconductor chip shortage; and

WHEREAS, the vendor is requesting to increase the original bid amount by \$13,053 for both Packer Trucks; and

WHEREAS, with this increase Western Truck Center continues to be the lowest responsible and responsive bid.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves an increase to the amount for the purchase of two (2) Packer Trucks to Western Truck Center, Stockton, CA by \$13,282, increasing the Purchase Order from \$501,078 to a new total amount not to exceed \$514,360.

BE IT FURTHER RESOLVED, that the Purchasing Manager, or her designee, is hereby authorized to update the Purchase Order.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 23rd day of August, 2022, by Councilmember Kenoyer, who moved its adoption, which motion being duly seconded by Vice-Mayor Wright, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Escutia-Braaton, Kenoyer, Madrigal, Ricci, Wright, Mayor Zwahlen

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST:

  
DIANE NAYARES-PEREZ, CMC,  
City Clerk

(SEAL)

APPROVED AS TO FORM:

BY:

  
JOSE M. SANCHEZ, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2022-357**

**RESOLUTION APPROVING AN INCREASE TO THE AMOUNT FOR THE PURCHASE OF ONE (1) CHLORINE TRUCK TO INTERSTATE TRUCK CENTER, STOCKTON, CA BY \$42,524, INCREASING THE PURCHASE ORDER FROM \$192,601 TO A NEW TOTAL AMOUNT NOT TO EXCEED \$235,125, AND AUTHORIZING THE PURCHASING MANAGER, OR HER DESIGNEE, TO UPDATE THE PURCHASE ORDER**

WHEREAS, on April 28, 2022, the Purchasing Division issued Purchase Order 201110 to Interstate Truck Center, Stockton, CA in the amount of \$192,601; and

WHEREAS, in early 2022, the vendor informed Purchasing the order could not be placed at the time of receiving the Purchase Order due to manufacture delays related to the current COVID-19 pandemic; and

WHEREAS, with this increase Western Truck Center continues to be the lowest responsible and responsive bid, and

WHEREAS, when ordering was able to be completed it was discovered that they could no longer hold the bid price because of continued price increases from manufacturers, steel surcharges, semiconductor chip shortage; and

WHEREAS, the vendor is requesting to increase the original bid amount by \$42,524 for the Chlorine Truck; and

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves an increase to the amount for the purchase of one (1) Chlorine Truck to Interstate Truck Center, Stockton, CA by \$42,524, increasing the Purchase Order from \$192,601 to a new total amount not to exceed \$235,125.

BE IT FURTHER RESOLVED, that the Purchasing Manager, or her designee, is hereby authorized to update the Purchase Order.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 23rd day of August, 2022, by Councilmember Kenoyer, who moved its adoption, which motion being duly seconded by Vice-Mayor Wright, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Escutia-Braaton, Kenoyer, Madrigal, Ricci, Wright, Mayor Zwahlen

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST:   
DIANE NAYARES-PEREZ, CMC,  
City Clerk

(SEAL)

APPROVED AS TO FORM:

BY:   
JOSE M. SANCHEZ, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2022-358**

**RESOLUTION APPROVING THE FORWARD TOGETHER WORKING GROUP  
RECOMMENDATIONS REPORT; AND DIRECTING STAFF TO CARRY OUT  
THE APPROPRIATE NEXT STEPS**

WHEREAS, the Forward Together Initiative was catalyzed as a response to calls for police reform intensifying across the country and at our local level. Its formation was also a reflection of an ongoing commitment to strong relationships and trust between the community and law enforcement; and

WHEREAS, the Forward Together working group, created by the City Council on June 8, 2021, was tasked with researching specific themes relative to policing, engaging the broader community in the process, and ultimately returning to Council with a set of recommendations to improve the police-community relations in the City of Modesto; and

WHEREAS, the themes determined by Council as a result of community input collected at the May 22, 2021 Forward Together listening session were:

1. Policies and Practices – that support safety, fairness and equity throughout the department and the community.
2. Alternate Response Models – that ensure the right type of response and resources are applied to a situation.
3. Accountability – for police conduct, decisions and how they impact the Modesto community; and

WHEREAS, over the past year, a series of Forward Together working group meetings were held to facilitate conversations around these themes, inviting a diverse group of community stakeholders and the general public to participate in the process. The 27-member working group, has dedicated significant time to this endeavor. In addition to

the monthly work group meetings, the members also participated in one or more of the three ad hoc subgroups. Each of the ad hoc groups met regularly to research and deliberate each theme. As a result, they have developed a meaningful set of recommendations in response to Council's request; and

WHEREAS, on June 15, 2022 the working group voted on the recommendations, which reflect broad areas of consensus amongst the members. Following this action, a series of community presentations were conducted to share the information with key stakeholders including Stanislaus NAACP, Modesto Chamber of Commerce, Modesto West People of Action Council, Faith in the Valley, Woodland West Neighborhood Group and the Modesto Police Officers Association.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby accepts the Forward Together working group recommendations report and directs staff to carry out the appropriate next steps.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 23rd day of August, 2022, by Councilmember Ricci, who moved its adoption, which motion being duly seconded by Vice-Mayor Wright, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Escutia-Braaton, Kenoyer, Madrigal, Ricci, Wright, Mayor Zwahlen

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST:   
DIANE NAYARES-PEREZ, CMC,  
City Clerk

(SEAL)

APPROVED AS TO FORM:

BY:   
JOSE M. SANCHEZ, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2022-359**

**RESOLUTION APPROVING THE PLANS AND SPECIFICATIONS FOR THE BRIGGSMORE AVENUE AND ORANGEBURG AVENUE PAVEMENT REHABILITATION PROJECT, ACCEPTING THE BID, AND AWARDING A CONTRACT TO UNITED PAVEMENT MAINTENANCE, INC. OF HUGHSON, CA, IN THE AMOUNT OF \$7,251,603 AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE TO EXECUTE THE AGREEMENT**

WHEREAS, plans and specifications have been prepared for the Briggsmore Avenue and Orangeburg Avenue Pavement Rehabilitation Project, and City staff recommends approval by the City Council; and

WHEREAS, the bids received for the Briggsmore Avenue and Orangeburg Avenue Pavement Rehabilitation Project, were publicly opened at 11:00 a.m. on June 28, 2022, and later tabulated by the Director of Community and Economic Development for the consideration of Council; and

WHEREAS, the Director of Community and Economic Development has recommended that the bid of \$7,251,603 received from United Pavement Maintenance, Inc. of Hughson, California be accepted as the lowest responsible and responsive bid and the contract be awarded to United Pavement Maintenance, Inc.; and

WHEREAS, Modesto Municipal Code Section 8-3.203 generally requires all purchases, which meet or exceed \$50,000 for material, equipment or contractual services, to follow the formal bid procedures; and

WHEREAS, an award of \$7,251,603 and agreement for construction for Community and Economic Development Department to use United Pavement Maintenance, Inc. of Hughson, California, conforms to the Modesto Municipal Code

because the City complied with the formal bid procedures and United Pavement Maintenance, Inc. of Hughson, California, was the lowest responsive bidder.

NOW, THEREFORE BE IT RESOLVED, by the Council of the City of Modesto that it hereby approves the plans and specifications for the Briggsmore Avenue and Orangeburg Avenue Pavement Rehabilitation Project, accepts the bid of United Pavement Maintenance, Inc. of Hughson, California, in the amount of \$7,251,603 and awards United Pavement Maintenance, Inc. the contract for the Briggsmore Avenue and Orangeburg Avenue Pavement Rehabilitation Project.

BE IT FURTHER RESOLVED, that the City Manager, or his designee, is hereby authorized to execute the contract, in a form approved by the City Attorney.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 23rd day of August, 2022, by Vice-Mayor Wright, who moved its adoption, which motion being duly seconded by Councilmember Escutia-Braaton, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Escutia-Braaton, Kenoyer, Madrigal, Ricci, Wright, Mayor Zwahlen

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST:   
DIANE NAYARES-PEREZ, CMC,  
City Clerk

(SEAL)

APPROVED AS TO FORM:

BY:   
JOSE M. SANCHEZ, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2022-360**

**RESOLUTION AUTHORIZING THE DIRECTOR OF UTILITIES TO  
APPROVE CHANGE ORDERS UP TO THE CUMULATIVE AMOUNT OF  
\$725,160 (10% OF THE ORIGINAL CONTRACT PRICE) FOR THE  
BRIGGSMORE AVENUE AND ORANGEBURG AVENUE PAVEMENT  
REHABILITATION PROJECT**

WHEREAS, Briggsmore Avenue and Orangeburg Avenue Pavement Rehabilitation Project bids were publicly opened on June 28, 2022, and United Pavement Maintenance, Inc. of Hughson, California, was the apparent low bidder with the amount of \$7,251,603; and

WHEREAS, due to the design build elements in the project, the contingency cost for the Briggsmore Avenue and Orangeburg Avenue Pavement Rehabilitation Project is estimated to be \$725,160 (10% of the original contract price), an amount which exceeds the Director's authority for the project as enacted by Council Resolution No. 2019-326 on July 9, 2019.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby authorizes the Director of Utilities to approve change orders up to the cumulative amount of \$725,160 (10% of the original contract price).

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 23rd day of August, 2022, by Vice-Mayor Wright, who moved its adoption, which motion being duly seconded by Councilmember Escutia-Braaton, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Escutia-Braaton, Kenoyer, Madrigal, Ricci, Wright, Mayor Zwahlen

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST:   
DIANE NAYARES-PEREZ, CMC,  
City Clerk

(SEAL)

APPROVED AS TO FORM:

BY:   
JOSE M. SANCHEZ, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2022-361**

**RESOLUTION APPROVING AN AGREEMENT WITH TRC ENGINEERS, INC. OF LATHROP, CA FOR CONSTRUCTION MANAGEMENT AND INSPECTION SERVICES FOR THE BRIGGSMORE AVENUE AND ORANGEBURG AVENUE PAVEMENT REHABILITATION PROJECT IN AN AMOUNT NOT TO EXCEED \$474,378, PLUS \$47,438 FOR ADDITIONAL SERVICES, IF NEEDED, FOR A TOTAL AMOUNT NOT TO EXCEED \$521,816, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE TO EXECUTE THE AGREEMENT**

WHEREAS, due to limited staffing resources and current workload, consultant assistance is necessary for proper project coverage and construction oversight, including Construction Management, Inspections, Materials Testing and Public Outreach services for the anticipated 8-month construction period; and

WHEREAS, in accordance with Modesto Municipal Code 8-3.204(a), agreements for professional services are exempt from the formal bidding requirements of Modesto Municipal Code 8-3.203; and

WHEREAS, the selection process followed the City's policy, Administrative Directive 3.1, Selection Procedures for Professional Consultants Who Provide Architectural and Engineering Services for Capital Projects; and

WHEREAS, Administrative Directive 3.1 allows for a selection of a consulting firm if in the best interest of the City and if the firm has rendered satisfactory services with the City; and

WHEREAS, TRC Engineers, Inc., has provided assistance with Construction Management and Inspection services for various City projects including the Roosevelt Park Storm Drain project, Village One Slurry Seal project, and the Tully Road Pavement

Rehabilitation project and has rendered quality service with respect to coordination with staff, the public and the contractor, as well as efficient construction management; and

WHEREAS, staff is recommending an agreement with TRC Engineers, Inc., to increase project delivery efficiencies.

NOW, THEREFORE BE IT RESOLVED, by the Council of the City of Modesto that it hereby approves an Agreement with TRC Engineers, Inc. of Lathrop, CA for Construction Management and Inspection Services for the Briggsmore Avenue and Orangeburg Avenue Pavement Rehabilitation Project in an amount not to exceed \$474,378, plus \$47,438 for additional services, if needed, for a total amount not to exceed \$521,816.

BE IT FURTHER RESOLVED, that the City Manager, or his designee, is hereby authorized to execute the Agreement in a form approved by the City Attorney.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 23rd day of August, 2022, by Vice-Mayor Wright, who moved its adoption, which motion being duly seconded by Councilmember Escutia-Braaton, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Escutia-Braaton, Kenoyer, Madrigal, Ricci, Wright, Mayor Zwahlen

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST:   
DIANE NAYARES-PEREZ, CMC,  
City Clerk

(SEAL)

APPROVED AS TO FORM:

BY:   
JOSE M. SANCHEZ, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2022-362**

**RESOLUTION AMENDING THE FISCAL YEAR 2022-2023 CAPITAL IMPROVEMENT PROGRAM (CIP) BUDGET, PROJECT #101246, #101248, and #101250 IN THE AMOUNT OF \$1,408,995 AND INCREASING THE TRANSFER FROM THE MEASURE L -LOCAL ROAD TAX FUND TO FUND THE PROJECT AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO TAKE THE NECESSARY STEPS TO IMPLEMENT THE PROVISIONS OF THIS RESOLUTION**

WHEREAS, pavement rehabilitation on Briggsmore Avenue (McHenry Avenue to Oakdale Road), includes roadway resurfacing, new signage and striping, ADA upgrades at intersections, removal of McHenry Village entrance, and signal upgrades (detection cameras) where needed; and

WHEREAS, pavement rehabilitation on Orangeburg Avenue (Coffee Road to Oakdale Road), includes roadway resurfacing, new signage and striping, ADA upgrades, and minor storm drainage system improvements at various locations; and

WHEREAS, ADA improvements to residential neighborhoods include compliant ramps, pedestrian refuges, signage and striping where needed; and

WHEREAS, additional work includes installation of curb, gutter, sidewalk and lighting on Empire Avenue (Yosemite Boulevard to Tenaya Drive); and

WHEREAS, the project was advertised for bid on May 18, 2022 and bids were publicly opened on June 28, 2022; and

WHEREAS, additional funding in the amount of \$1,408,995 is needed for the project related to the construction contract and sufficient funds are available in the Measure L Local Road Tax Fund; and

WHEREAS, the City Council shall consider amending the Capital Improvement Program (CIP) budget to increase the transfer of \$1,408,995 from the Measure L Road

Tax fund to Project #101246, #101248, and #101250 in the amount of \$1,408,995 to fully fund the projects and encumber the construction contract.

NOW, THEREFORE, BE IT RESOLVED, that the Council of the City of Modesto that it hereby amends the Fiscal Year 2022-2023 Capital Improvement Program (CIP) Budget Project #101246, #101248, and #101250 in the amount of \$1,408,995 and increasing the transfer from the Measure L Road Tax fund to fund the projects.

BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to implement the provision of this resolution.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 23rd day of August, 2022, by Vice-Mayor Wright, who moved its adoption, which motion being duly seconded by Councilmember Escutia-Braaton, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Escutia-Braaton, Kenoyer, Madrigal, Ricci, Wright, Mayor Zwahlen

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST:   
DIANE NAYARES-PEREZ, CMC,  
City Clerk

(SEAL)

APPROVED AS TO FORM:

BY:   
JOSE M. SANCHEZ, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2022-363**

**RESOLUTION CONTINUING TO AUTHORIZE REMOTE  
TELECONFERENCE MEETINGS OF THE CITY OF MODESTO PURSUANT  
TO ASSEMBLY BILL 361**

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

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

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

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

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

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

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

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

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

WHEREAS, on September 28, 2021, the City Council adopted Resolution No. 2021-370 authorizing remote teleconference meetings pursuant to AB361 (Government Code section 54953(e)); and

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

WHEREAS, the City Council has considered the circumstances of the Governor’s state of emergency proclamation pursuant to Government Code section 8625, which remains active; and

WHEREAS, on March 8, 2022, the County of Stanislaus Board of Supervisors terminated the Declaration of a Local Health Emergency that was issued on March 11, 2020; and

WHEREAS, the Stanislaus County Public Health Services Agency still strongly recommends community members to wear a mask while in “any indoor public space” along with other recommendations intended to promote social distancing measures; and

WHEREAS, the City Council, acting for itself and for the benefit of all of the City’s commissions, committees, and other bodies (collectively referred to as the “Legislative Bodies”), does hereby find that the Legislative Bodies shall continue to conduct their meetings without compliance with Government Code section 54953(b)(3), as authorized by Government Code section 54953(e), and that the Legislative Bodies shall continue to comply with the requirements to provide the public with access to the meetings as prescribed in Government Code section 54953(e)(2) as a consequence of the ongoing state of emergency and the continued social distancing measures required by local officials.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF MODESTO DOES HEREBY RESOLVE AS FOLLOWS:

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

Section 2. Consideration of State of Emergency. The City Council has considered the conditions of the state of emergency declared pursuant to Government Code section 8625, and determined that such emergency conditions continue to be present in the City.

Section 3. Continued Social Distancing Measures by State and Local Officials.

The City Council finds that the County of Stanislaus Health Officer's recommended measures to promote social distancing remain in effect.

Section 4. Remote Teleconference Meetings. The City Council finds that the conditions continue to exist pursuant to Government Code section 54953(e)(3) to allow Legislative Bodies to use teleconferencing to hold public meetings in accordance with Government Code section 54953(e)(2) to ensure members of the public have continued access to safely observe and participate in local government meetings.

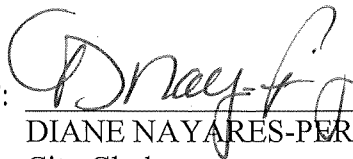
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 13th day of September, 2022, by Councilmember Kenoyer, who moved its adoption, which motion being duly seconded by Councilmember Ricci, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Escutia-Braaton, Kenoyer, Madrigal, Ricci,  
Wright, Mayor Zwahlen

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST:



DIANE NAYARES-PEREZ, CMC,  
City Clerk

(SEAL)

APPROVED AS TO FORM:

BY:

  
JOSE M. SANCHEZ, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2022-364**

**RESOLUTION APPROVING A RESPONSE TO THE FINDINGS AND  
RECOMMENDATIONS OF THE 2021-2022 STANISLAUS COUNTY CIVIL  
GRAND JURY REPORT- CASE #22-05GJ AND CASE # 22-07GJ**

WHEREAS, on June 16, 2022, the City received reports from the Stanislaus County Civil Grand Jury, Case Number 22-05GJ, titled, “Homelessness: The Elusive Definition of “Success” and Case Number 22-07GJ, titled, “The Future of Urban Water Supply and Demand;” and

WHEREAS, the Stanislaus County Civil Grand Jury wrote the report for Case #22-05GJ to raise awareness of the scope and magnitude of the issues surrounding homelessness and how the community addresses it. The report requested each of the cities within Stanislaus County, as well as the Stanislaus Homeless Alliance and Community System of Care, to review and respond to its findings and recommendations; and

WHEREAS, the Stanislaus County Civil Grand Jury wrote the report for Case #22-07GJ to examine how two cities, Modesto and Patterson are preparing to meet the challenges posed by this changing water landscape. The State has enacted significant water legislation applicable to urban water suppliers for over three decades, most notably in the last fifteen years; and

WHEREAS, the City reviewed and responded to all of the findings and recommendations and generally agrees with the recommendations of the Grand Jury both cases. The City is committed to effectively utilizing its homeless funds and is continually looking for ways to improve the accountability and effectiveness of the funding utilized in Modesto and find ways to present this to the community; and

WHEREAS, the City of Modesto continues to regularly monitor and adjust its water usage based on water supply and state mandates. The City offers many incentives including personalized water-wise consultations for homeowners conducted by water division staff, and currently offers five (5) water rebate programs to encourage the public to conserve and reduce water usage.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the responses to the Findings and Recommendations of the 2021-2022 Stanislaus County Civil Grand Jury Report- Case #22-05GJ and Case #22-07GJ.

BE IT FURTHER RESOLVED that the City Manager is authorized and directed to forward the approved responses to the Presiding Judge of the Superior Court of Stanislaus County.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 13th day of September, 2022, by Councilmember Kenoyer, who moved its adoption, which motion being duly seconded by Councilmember Ricci, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Escutia-Braaton, Kenoyer, Madrigal, Ricci, Wright, Mayor Zwahlen

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST:   
DIANE NAYARES-PEREZ, CMC,  
City Clerk

(SEAL)

APPROVED AS TO FORM:

BY:   
JOSE M. SANCHEZ, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2022-365**

**RESOLUTION AMENDING THE FISCAL YEAR 2021-22 AND FISCAL YEAR  
2022-23 ANNUAL OPERATING AND CAPITAL IMPROVEMENT FUND  
BUDGETS AND AUTHORIZING THE CITY MANAGER, TO TAKE THE  
NECESSARY STEPS TO IMPLEMENT THE PROVISIONS OF THIS  
RESOLUTION**

WHEREAS, a financial analysis has been completed and it has been determined that a budget adjustment is required to the Annual and Capital Improvement Budgets of the City of Modesto for Fiscal Year 2021-22 and Fiscal Year 2022-23.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves amending the Fiscal Year 2021-22 and Fiscal Year 2022-23 Annual Operating and Capital Improvement budget as shown in **Exhibit A**, which is **attached** hereto and incorporated by reference herein.

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 13th day of September, 2022, by Councilmember Kenoyer, who moved its adoption, which motion being duly seconded by Councilmember Ricci, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Escutia-Braaton, Kenoyer, Madrigal, Ricci, Wright, Mayor Zwahlen

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST:   
DIANE NAYARÉS-PÉREZ, CMC,  
City Clerk

(SEAL)

APPROVED AS TO FORM:

BY:   
JOSE M. SANCHEZ, City Attorney

## EXHIBIT A

### FISCAL YEAR 2021-22

#### **CITY MANAGER'S OFFICE**

- The City Manager's Office is responsible for the overall management of the organization certain costs are expended from this cost center as they are related to overarching citywide programs and initiatives. In addition, some of the expenditures were not anticipated during the initial budget adoption and therefore are cost savings from other departments are necessary to cover the associated overage. A budget adjustment is necessary to move salary savings in the amount of \$28,261 from the Police Department to the City Manager's Office to cover unanticipated salary expenditures and discretionary expenditures that occurred in Fiscal Year 2021-22. Salary and Benefit expenditures related to the additional time required by the overfilling of the Deputy City Manager's position for the critical work related to the Forward Together program occurred causing the overage of Appropriation Unit A in the amount of \$18,261 in Fiscal Year 2021-22 in the City Manager's Office. Additional expenditures in the amount of \$10,000 are needed to cover unanticipated Discretionary expenditures that have occurred related to the Sales Tax Ballot Measure.

#### **COMMUNITY & ECONOMIC DEVELOPMENT**

- A budget adjustment is necessary to increase the expense and revenues budgets for the HOME Program (101343) by \$63,697 to capture all available funding. The HOME Program Year 2018 has a remaining balance available of \$22,908 for administration activities, and HOME Program Year 2019 has \$40,789 available. These funds are in addition to the current budgeted amount for FY21 admin activities.

#### **FINANCE**

- A budget adjustment in the amount of \$744,753 is necessary in the Inventory Purchase Fund (5110) to recognize revenues received from sales of inventory for the Litt Stores location and increase the expense budget for costs of goods sold due to an increase in Water meter replacements.

#### **FIRE DEPARTEMENT**

- A budget adjustment is necessary in the amount of \$65,000 is needed in the General Fund (0100) and Fleet Management Fund (5400) to budget the revenue and expenses related to the Modesto Fire Department for use of the Bus Maintenance Facility. The Fire Department is responsible for 1/6 of the facility charges during the year as they utilize one of the Fleet bays at the facility for repairs and maintenance on fire equipment.

#### **HUMAN RESOURCES**

- A budget adjustment in the amount of \$681,000 is necessary in the Employee Benefit Management Fund (5510) to increase the revenue and expense budget to fully budget the employee paid Unfunded Accrued Liability (UAL).

- A budget adjustment in the amount of \$150,000 is needed in the Liability Insurance Fund (5330) to budget additional Insurance Premiums and Claim Payments to pay for unbudgeted expenditures.
- A budget adjustment in the amount of \$75,000 is needed in the Employee Benefits Management Fund (5510) to increase the Vacation Cashout Leave expense related to employee separation.
- A budget adjustment in the amount of \$75,000 is needed in the Property Insurance Fund (5340) to budget additional Insurance Premiums and to ensure sufficient funds are allocated in the Insurance Trust Fund.

### **MEASURE L - COMMUNITY & ECONOMIC DEVELOPMENT/PUBLIC WORKS**

- A budget adjustment is necessary to recognize actual revenue received in the Measure L Fund (1410) for the fiscal year FY 20/21. The additional revenue to recognize is in an amount up to \$5,000,000 for the Local Streets & Roads (14625), Traffic Management (14626), and Bike & Pedestrian (14627) cost centers.
- A budget adjustment is necessary to establish a transfer from the Surface Transportation Fund – Measure L/SB 1 Maintenance of Effort (MOE) Fund (1420) to the Surface Transportation Fund (1700) in the amount of \$1,144,825 to offset transportation operations in the fund and meet the Senate Bill 1 RMRA/Measure L MOE requirement.

### **PARKS, RECREATION & NEIGHBORHOODS**

- Per the agreement that was entered into with the Modesto Convention & Visitors Bureau (CVB) by the City of Modesto, the City is to provide to the Modesto Centre Plaza (MCP) an amount equal to thirty percent (30%) of the of the City's annual Transient Occupancy Tax (TOT) receipts that exceed \$2,850,000 for the sole purpose of funding deferred maintenance and capital improvements at the Modesto Centre Plaza. In Fiscal Year 2021-22, the City received total TOT receipts of \$3,611,935 and the 30% of the amount that exceeds \$2,850,000 that is required to be transferred to the capital improvements for the Modesto Centre Plaza is \$228,581. Therefore, a budget adjustment is required in Fiscal Year 2021-22 to create a transfer out from the General Fund in the amount of \$228,581 into the Non-Capital Multi-Year Project 101251 (PRN - MCP Deferred Maintenance) in Fund 4700 (Community Center Operations Fund) to meet the requirements of the agreement concerning TOT revenues.
- A budget adjustment is necessary to decrease the transfer out from the General Fund (0100) to the Golf Fund (4600) in the amount of \$500,000 and increase the transfer out from the General Fund (0100) to the Centre Plaza (4700) in the amount of \$250,000. The Golf Fund continued to bring in better than anticipated revenues from rounds of golf played during Fiscal Year 2021-22, while the Centre Plaza continued to slowly recover from the pandemic in terms of booking events which has affected its revenues. This adjustment will result in a net savings of \$250,000 to the General Fund from original budgeted subsidies to these two funds.

**POLICE DEPARTEMENT**

- A budget adjustment in the amount of \$90,000 is needed in the General Fund (0100) to increase Asset Forfeiture Revenue and Police Safety Equipment Expense in Modesto Police Assets Forfeiture Cost Center (19465).

**PUBLIC WORKS**

- *The following adjustments are being made from the various city Fleet Replacement sub-funds to the Fleet Replacement Fund (5409). This action is being done to reimburse the Fleet Replacement Fund (5409) for vehicle purchases that had been made as required by fund accounting rules in FY 21-22 for the activity through June 2022. Below is a table showing the net effect in each sub-fund as a result of the various adjustments.*

<b>Fund</b>	<b>Fund Name</b>	<b>Net Impact of Adjustments</b>
<b>1709</b>	Surface Transportation Fleet Replacement	\$24,270
<b>4899</b>	Solid Waste Fleet Replacement	\$591,977
<b>5410</b>	General Fund Equipment Fleet Replacement	\$484,685
	<b>Total Transfer Outs</b>	<b>\$1,100,932</b>
5409	Transfer In – Fleet Management Fleet Replacement	\$1,100,932
	<b>Total Transfer Ins</b>	<b>\$1,100,932</b>
<b>5409</b>	<b>Fleet Management Fleet Replacement Expense Budget</b>	<b>\$288,562</b>

A budget adjustment is necessary to establish a transfer in the amount of \$24,270 from the Surface Transportation Fleet Replacement Fund to Fleet Replacement Fund for purchase of (1) sprayer emulsion trailer.

A budget adjustment is necessary to establish a transfer in the amount of \$591,977 from the Solid Waste Fleet Replacement Fund to Fleet Replacement Fund for purchase of (1) truck with low profile dump, (1) loader claw, and (1) tractor.

A budget adjustment is necessary to establish a transfer in the amount of \$484,685 from General Fund Equipment Fleet Replacement Fund 5410 to Fleet Replacement Fund for purchase of (1) investigation sedan, (1) truck with stake side dump, (1) patrol SUV, and equipment for Police builds.

- A budget adjustment in the amount of \$288,562 to the Fleet Replacement Fund (5409) expense budget is needed to account for all expenditures related to the sub-fund replacement activity. The increase in expense budget is offset by the transfer in revenue to the fund.
- A budget adjustment in the amount of \$55,000 is necessary in the Fleet Management Fund (5400) to increase the budget for the Fleet Maintenance Facility project 100451. The increase is necessary to cover change orders 28-35 and will be covered by the Fleet Management Fund (5400) fund reserves.

- A budget adjustment in the amount of \$250,750 is needed in the Fleet Management Fund 5400 for the City Services for StanRTA – Bus Maintenance Facility cost center 53243 and Fleet Vehicle and Equipment Maintenance cost center 53255. The adjustment will recognize additional revenue received from StanRTA for monthly invoices. The increase in the expense budget will account for the additional fuel and parts invoices anticipated through the end of the fiscal year as a result of an increase in buses from 68 to 128 in January 2022, additional units from Ceres and Oakdale fire departments, fuel prices doubling throughout the fiscal year, and increased costs for parts on all City-wide equipment and vehicles. The increase for the expense budget will be recovered by the Stanislaus County Regional Transit Authority (StanRTA), the fire contracts from Oakdale and Ceres, and through the Fleet Internal Services Fund.
- A budget adjustment up to \$200,964.33 is necessary to reduce the remaining operating budget in the Transit cost centers 53244, 53472, and 53473. This budget is the result of rollover encumbrances from prior fiscal years that were not cleared prior to the start of FY22. With Transit no longer being a division of the City of Modesto as of July 1 2022, these remaining budgets must be cleared. The \$200,964.33 adjustment will be processed to the accounts below as follows:

4540-53244-52220-00000-00000 Decrease of \$26,521.52  
4540-53244-53105-00000-00000 Decrease of \$12,843.11  
4540-53472-53300-00000-00000 Decrease of \$67,020.77  
4520-53473-53350-00000-00000 Decrease of \$94,578.93

## **UTILITIES**

- A budget adjustment in the amount of \$15,000,000 is required from the Water Fund (4100) to the Water CIP Fund (4180) for capital project expenditures related to the Water Fund. For tracking purposes, Capital projects are all expensed out of Water CIP Fund (4180) and at end of the fiscal year, a transfer from the Water Fund (4100) is needed to cover the expenses in the Water CIP Fund.
- A budget adjustment in the amount of \$84,966 is needed in the Wastewater Fund (4210) to establish a transfer to the Wastewater Tertiary Treatment State Revolving Loan Fund (4245) to cover closing costs associated with this Fund. Towards the end of Fiscal Year 2020, the Wastewater Tertiary Treatment State Revolving Loan Fund (4245) was refinanced and can be now be closed out.

**FISCAL YEAR 2022-23**

**COMMUNITY & ECONOMIC DEVELOPMENT**

- A budget adjustment is needed to correct the FY23 Community Development Block Grant Funds (CDBG) budget, and move budgeted revenue and expenses from activity 01465 to activity 01464. There is no change to the total budget for the cost center (14010).

**PARKS, RECREATION & NEIGHBORHOODS**

- A budget adjustment in the amount of \$100,000 is necessary in the JPA TRRP Special Revenue Fund – CIP (6710) to establish the budget for project 101345 – American Legion Hall Fire Remediation. The adjustment will also increase the revenue in the JPA – Tuolumne River Regional Park (TRRP) for the anticipated sale of land and establish a transfer from the fund to the project. Due to the urgent need to begin the project, a budget adjustment in the amount of \$25,000 was completed on the Budget Manager authority. This adjustment will increase the budget by an additional \$75,000 for a total of \$100,000.

**PUBLIC WORKS**

- A budget adjustment is necessary to increase the FY 2022-2023 10<sup>th</sup> Street JPA Allocation from various City funds for the fiscal year 2022-2023 assessment that was approved by the 10<sup>th</sup> Street JPA Commission Board on June 22, 2022 for the 10<sup>th</sup> Street Place, of which, the City’s portion of the increase is \$136,930. The City will also receive \$11,289 in revenue related to lease agreements, therefore the net increase to the City is \$125,641 The assessment of \$125,641 has been split amongst a number of funds of which the breakdown can be seen below.

<b>Fund Name</b>	<b>Fund</b>	<b>Total Increase/Decrease</b>
General Fund	0100	\$ 74,791
HUD Administration	1133	\$ 989
Capital Improvement Support	1300	\$ 6,890
Surface Transportation Fund	1700	\$ 7,033
Water Fund	4100	\$ 15,038
Sewer Operations Fund	4210	\$ 5,150
Solid Waste Fund	4891	\$ 5,518
Mail Services ISF	5120	\$ 326
Information Technology Fund	5230	\$ 8,026
Insurance - Administration Fund	5310	\$ 1,399
Employee Benefits Management Fund	5520	\$ 481
	<b>Grand Total</b>	<b>\$ 125,641</b>

The adjustment will also increase the revenue and expenses in the 10<sup>th</sup> Street JPA Fund by amounts below in the following accounts:

<u>Account</u>	<u>Amount</u>
5810-52310-42405 (City of Modesto Contribution)	\$125,641
5810-52310-46021 (Office Space Rental Income)	\$11,289
5810-52310-53505 (Intergovernmental Services - Other)	\$136,930

- A budget adjustment in the amount of \$575,000 is necessary in the Surface Transportation Fund (1700) to create and establish the budget for the Detection Cameras Downtown SB1 Non-Capital Project (101421). As part of this adjustment, a transfer will also be established from the Gas Tax Fund (1730) to the project as the project will be funded with Senate Bill 1 (SB1) funds for Fiscal Year 2022-2023. This project will provide cameras at 23 intersections in the downtown area.
- A budget adjustment in the amount of \$59,000 is necessary in the Airport Operating Fund (4310) to recognize the revenue in Account 45004 – Interfund Charges – Service Credit Labor Charges related to staff time charged to Project 101378 - ARPA KW2022 and increase the Professional Services expenditure Account 53300.

### UTILITIES

- A budget adjustment in the amount of \$1,680,200 is necessary in the Water Fund – CIP (4180) to create and establish the budget for the Tank 4 Recoat & Repairs Non-Capital Project (101413). This project will provide funding for the removal and replacement of the existing interior and exterior coating (epoxy liner) of Tank 4 in order to prevent corrosion of the steel water tank walls (shell). Based on a Tank Industry Consultants inspection report dated December 15, 2017, minor repairs will be required on the interior and exterior of the tank. Other repairs to the tank will include the exterior ladder, manways, vents, inlets and minor repairs on items that have been damaged due to corrosion.
- A budget adjustment in the amount of \$1,347,515 is necessary in the Wastewater Development Fund (4211) to budget revenues and expenditures for the Airport Neighborhood Sewer project (101070).

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2022-366**

**RESOLUTION AMENDING THE POSITION ALLOCATION FOR FISCAL  
YEAR 2022-23 AS ADOPTED IN THE OPERATING BUDGET**

WHEREAS, a Position Allocation for the City of Modesto was adopted by Modesto City Council on July 12, 2022, as part of the Annual Budget of the City of Modesto for Fiscal Year 2022-23; and

WHEREAS, classification studies are conducted to ensure that a classification system is equitable and consistent within an organization and that positions are correctly classified; and

WHEREAS, per Personnel Administrative Order 2.2-87-12, a classification study may be conducted in response to a reclassification request, to develop/revise a classification specification, or to assist in a reorganization; and

WHEREAS, classification studies were conducted by Human Resources to determine appropriate classifications; and

WHEREAS, position changes will be effective upon City Council adoption, unless otherwise noted.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves amending the Position Allocation for various departments as follows:

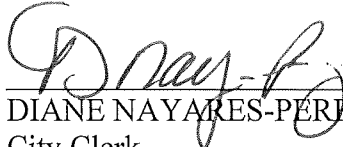
1. Allocate three (3) Firefighters in the Fire Services for Oakdale Division (18212) of the Fire Department.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 13th day of September, 2022, by Councilmember Kenoyer, who moved its adoption, which motion being duly seconded by Councilmember Ricci, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Escutia-Braaton, Kenoyer, Madrigal, Ricci, Wright, Mayor Zwahlen

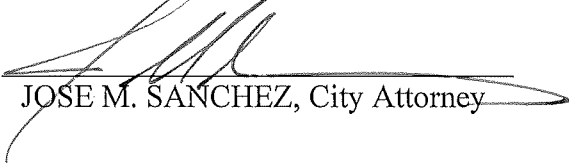
NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST:   
DIANE NAYARES-PEREZ, CMC,  
City Clerk

(SEAL)

APPROVED AS TO FORM:

BY:   
JOSE M. SANCHEZ, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2022-367**

**RESOLUTION APPROVING THE 2021-2022 WRITE-OFF AND  
ADJUSTMENTS REPORTS THROUGH FISCAL YEAR END JUNE 30, 2022 IN  
THE TOTAL AMOUNT OF \$1,465,305 AND DIRECTING A REPORT OF  
DISPOSITION TO BE FILED WITH THE CITY CLERK**

WHEREAS, the Finance Department maintains a billing system to track monies owed to the City; and

WHEREAS, occasionally the responsible party does not pay the City as required; and

WHEREAS, it is the City's policy to actively pursue collection of past-due accounts and write off amounts deemed to be uncollectible; and

WHEREAS, the City employs various different means of trying to collect past-due accounts; and

WHEREAS, collection efforts continue until the legal statute restricts the City's collections actions; and

WHEREAS, the City's Write-off of Uncollectible Accounts Receivable policy, as allowed under by Section 2-3.406 of Article 4 of Title 2 of the Municipal Code, requires the following approval authority: the Director of Finance is authorized to approve the write-off of accounts with an outstanding balance due of up to \$5,000, and the City Manager is authorized to approve the write-off of accounts with an outstanding balance due in excess of \$5,000 and up to \$25,000; and

WHEREAS, in Fiscal Year 2018-2019, the Finance Department established Administrative Directive 7.20, Accounts Receivable Adjustment Policy, and determined

the Accounts Receivable, Utility Billing, Parking Citations and Business License adjustments should be incorporated into the annual report; and

WHEREAS, the following amounts with an outstanding balance less than \$5,000 have been approved for write-off by the Director of Finance for the Fiscal Year 2021-2022 and as such all available collection remedies have been exhausted: (1) Miscellaneous Receivables- \$153,583, (2) Utilities Receivables - \$765,536, (3) Parking Citations - \$481,805, (4) Business License - \$41,347; and

WHEREAS, for the write off and adjustment amounts in excess of \$5,000 and up to \$25,000 for \$23,034, the City Manager is authorized to approve.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby accepts the City Manager's and Director of Finance reports of uncollectible utility and accounts receivable in the total amount of \$1,465,305, and approve a report of disposition be filled with the City Clerk,

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 13th day of September, 2022, by Councilmember Kenoyer, who moved its adoption, which motion being duly seconded by Councilmember Ricci, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Escutia-Braaton, Kenoyer, Madrigal, Ricci, Wright, Mayor Zwahlen

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST:   
DIANE NAYARÉS-PÉREZ, CMC,  
City Clerk

(SEAL)

APPROVED AS TO FORM:

BY:   
JOSE M. SANCHEZ, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2022-368**

**RESOLUTION CLAIMING FISCAL YEAR 2021-2022 UNCLAIMED FUNDS OF \$18,813 HELD IN THE CITY'S TRUST FUND FOR MORE THAN THREE YEARS AND AUTHORIZING THE TRANSFER TO THE GENERAL FUND**

WHEREAS, the City issues checks from time to time that remain uncashed the payee, and such checks that are not cashed remain in the accounting records as

Outstanding Checks; and

WHEREAS, California Government Code Sections 50050-50053 and 50055 establishes provisions for the escheatment of such unclaimed money to the City's General Fund; and

WHEREAS, State law requires unclaimed funds in the amount of \$15 or more, held in the City's Trust fund, be published in a newspaper of general circulation in the City of Modesto, for two successive weeks; and

WHEREAS, after a forty-five day period from the date of the first publication any funds that are not claimed become the property of the City of Modesto.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves \$18,813 in Fiscal Year 2021-2022 unclaimed funds to be transferred to the General Fund.

BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to take the necessary steps to implement the provisions of this Resolution.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 13th day of September, 2022, by Councilmember Kenoyer, who moved its adoption, which motion being duly seconded by Councilmember Ricci, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Escutia-Braaton, Kenoyer, Madrigal, Ricci, Wright, Mayor Zwahlen

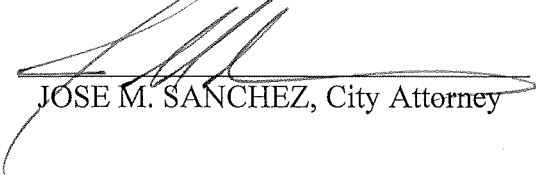
NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST:   
DIANE NAYARES-PEREZ, CMC,  
City Clerk

(SEAL)

APPROVED AS TO FORM:

BY:   
JOSE M. SANCHEZ, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2022-369**

**RESOLUTION APPROVING AN AGREEMENT WITH SALIDA FIRE PROTECTION DISTRICT FOR THE ALLOCATION OF DISTRICT REVENUE RESULTING FROM THE ANNEXATION OF PROPERTY(IES) WITHIN THE WOODGLEN RESIDENTIAL NEIGHBORHOOD AND FUTURE ANNEXATIONS TO THE CITY OF MODESTO, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE AGREEMENT**

WHEREAS, the Salida Fire Protection District (“District”) is currently responsible for fire suppression and prevention and receives the District Revenue (property tax) generated within its jurisdictional boundaries; and

WHEREAS, District and City of Modesto (“COM”) are currently in the negotiation and approval process to enter into a full fire protection services agreement; and

WHEREAS, under the approved agreement, COM will provide the following services within District’s jurisdictional boundaries: fire protection, prevention, suppression services, and related services such as emergency medical services, emergency preparedness, mitigation of hazardous materials incidents, and special operations including, but not limited to, confined space rescue, technical rescue and water rescue; and

WHEREAS, both COM and District desire to enter into an agreement to allocate District Revenues; and

WHEREAS, the agreement shall become effective on the date that it becomes approved by both District and COM. It shall terminate only upon the mutual agreement of the parties; and

WHEREAS, it is agreed by both District and COM that an equitable sharing of future District Revenue from the Woodglen Residential Neighborhood Annexation will benefit the overall organization of fire protection agencies and their cooperative ability to provide adequate emergency services; and

WHEREAS, under the proposed agreement, the District will continue to annually receive the same amount of District Revenue that it receives currently (known as the “Base District Revenue”). As development occurs and District Revenue increases in future years (due to increased property assessments), the City will receive all of the new revenue, up to a maximum of 200% of the Base District Revenue retained by the District each year. Any additional District Revenue will be split equally between the City and District; and

WHEREAS, this agreement positively impacts the General Fund, as both District and City intend that all District Revenues will ultimately be split equally (50/50) between them for the Woodglen Residential Neighborhood Annexation.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves an Agreement with Salida Fire Protection District for the allocation of District Revenue resulting from the annexation of property(ies) within the Woodglen residential neighborhood and future annexations to the City of Modesto.


BE IT FURTHER RESOLVED that the City Manager or designee is hereby authorized to execute the agreement, in a form approved by the City Attorney.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 13th day of September, 2022, by Councilmember Kenoyer, who moved its adoption, which motion being duly seconded by Councilmember Ricci, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Escutia-Braaton, Kenoyer, Madrigal, Ricci, Wright, Mayor Zwahlen

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST:   
DIANE NAYARES-PEREZ, CMC,  
City Clerk

(SEAL)

APPROVED AS TO FORM:

BY:   
JOSE M. SANCHEZ, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2022-370**

**RESOLUTION APPROVING AN AGREEMENT TO PROVIDE FIRE PROTECTION SERVICES BETWEEN THE CITY OF MODESTO AND THE SALIDA FIRE PROTECTION DISTRICT FOR A FIVE-YEAR TERM, WITH A TWO-YEAR EXTENSION OPTION AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE AGREEMENT**

WHEREAS, the Salida Fire Protection District (“District”) authorized staff to explore contract for fire services agreements in May 2022; and

WHEREAS, discussion began between District and the City of Modesto (“COM”) to provide the following services within District’s jurisdictional boundaries: fire protection, prevention, suppression services, and related services such as emergency medical services, emergency preparedness, mitigation of hazardous materials incidents, and special operations including, but not limited to, confined space rescue, technical rescue and water rescue; and

WHEREAS, District has been without a Fire Chief since May 2, 2022 and was in immediate need of a designated Fire Chief during the period of time of the full fire protection services agreement negotiation and approval process; and

WHEREAS, City Council subsequently approved Resolution 2022-302 on July 12, 2022 to authorize temporary Fire Chief services to District; and

WHEREAS, effective January 1, 2016, Government Code Section 56134 requires fire protection contracts or agreements for the exercise of new or extended fire protection services outside a public agency’s jurisdictional boundaries to be reviewed by the Local Agency Formation Commission; and

WHEREAS, staff has conducted an in-depth assessment of the staffing and resources required to support the request as outlined above, and it has been determined

that additional staffing, as outlined in the Agreement, will consist of one (1), three (3)-member company at Station 12; and

WHEREAS, the initial term of the Agreement will be for five years, from September 27, 2022 through June 30, 2027, with the option of an additional two-year extension; and

WHEREAS, District will compensate COM for all services provided, pursuant to the terms and conditions of the Agreement. Upon expiration or termination of the Agreement, it is the intention of District to offer employment to personnel affected by the termination; and

WHEREAS, it is anticipated that this Agreement will generate approximately \$9,474,491 in new revenue to the General Fund over the five-year term. The total anticipated expenses to the general fund in order to perform the duties of the Agreement (including salary and benefits, fleet maintenance, and service and supplies) are approximately \$9,224,491. The net revenue for the five -year term of the Agreement is estimated at approximately \$250,000 and accounts for COM's fire administrative support and overhead costs. This Agreement positively impacts the General Fund through the economies of scale from regionalization.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves an Agreement to provide fire protection services between the City of Modesto and the Salida Fire Protection District for a five-year term, with a two-year extension option.

BE IT FURTHER RESOLVED that the City Manager or designee is hereby authorized to execute the agreement, in a form approved by the City Attorney.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 13th day of September, 2022, by Councilmember Kenoyer, who moved its adoption, which motion being duly seconded by Councilmember Ricci, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Escutia-Braaton, Kenoyer, Madrigal, Ricci, Wright, Mayor Zwahlen

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST:   
DIANE NAYARÉS-PÉREZ, CMC,  
City Clerk

(SEAL)

APPROVED AS TO FORM:

BY:   
JOSE M. SANCHEZ, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2022-371**

**RESOLUTION APPROVING THE SIDE LETTER TO THE MODESTO CITY  
FIRE FIREFIGHTERS ASSOCIATION MEMORANDUM OF  
UNDERSTANDING AS IT RELATES TO THE AGREEMENT TO PROVIDE  
FIRE PROTECTION SERVICES BETWEEN THE CITY OF MODESTO AND  
SALIDA FIRE PROTECTION DISTRICT, AND AUTHORIZING THE CITY  
MANAGER, OR HIS DESIGNEE, TO EXECUTE THE AGREEMENT**

WHEREAS, the current Memorandum of Understanding (MOU) between the City of Modesto (CITY) and the Modesto Fire Fighters Association (MCFFA) expires on June 30, 2024; and

WHEREAS, representatives of the CITY and the MCFFA have met and conferred in good faith concerning vacation boards and minimum staffing; and

WHEREAS, the CITY and MCFFA have reached agreement on language changes for a Letter of Agreement (LOA) which, upon execution, shall be **attached** hereto and made a part hereof; and

WHEREAS, the LOA provides as follows:

ARTICLE 18, MINIMUM STAFFING, Effective September 27, 2022, Article 18 Section A shall remain in full force and effect relative to District Firefighters with the understanding that City shall provide, on a twenty-four (24) hour, seven (7) day per week basis, one (1) three (3) member company at Station 12. Additional qualified fire personnel may be assigned to the Station as determined by the City Fire Chief or his/her designee to provide supplemental Fire Services or staffing for special events, anticipated weather events, or operational capacity. Minimum staffing level for District shall be (3) members per Engine Company. Due to staffing, 9 (nine) positions will be allocated; and

ARTICLE 26, PROBATION, newly hired District employees shall serve a one

(1) year probationary period. Employees currently on probation will be considered probationary employees for all rules and regulations regarding their probationary status. Further, probationary employees shall pass all testing and requirements of the Fire Department. Employees not on probation at the time of this agreement shall be entitled to the Firefighter Bill of Rights; and

WHEREAS, this contract amendment shall become effective upon ratification by the MCFFA and adoption by the City Council.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Council hereby approves the side letter to the Modesto City Fire Firefighters Association Memorandum of Understanding as it relates to the Agreement to provide fire protection services between the City of Modesto and Salida Fire Protection District.

BE IT FURTHER RESOLVED by the Council of the City of Modesto that the City Manager or designee is hereby authorized to execute the side letter.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 13th day of September, 2022, by Councilmember Kenoyer, who moved its adoption, which motion being duly seconded by Councilmember Ricci, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Escutia-Braaton, Kenoyer, Madrigal, Ricci, Wright, Mayor Zwahlen

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST:   
DIANE NAYARES-PEREZ, CMC,  
City Clerk

(SEAL)

APPROVED AS TO FORM:

BY:   
JOSE M. SANCHEZ, City Attorney

**Letter of Understanding**  
**Between**  
**City of Modesto**  
**And**  
**Modesto City Fire Fighters Association, IAFF Local 1289**

The City of Modesto, hereby referred to as “City” and the Modesto City Firefighters Association, IAFF Local 1289, hereby referred to as “Union” execute this Letter of Understanding (“LOU”) on this \_\_\_\_\_ day of September 2022 regarding the Salida Fire Protection District (“District”) Contract for Services Agreement (“Agreement”) with the City.

The City and the Union agree:

**Article 18. MINIMUM STAFFING POLICY**

1. Effective September 27, 2022, Article 18 Section A shall remain in full force and effect relative to District Firefighters with the understanding noted in (a) below.
  - a. Staffing. City shall provide, on a twenty-four (24) hour, seven (7) day per week basis, one (1) three (3) member company at Station 12. Additional qualified fire personnel may be assigned to the Station as determined by the City Fire Chief or his/her designee to provide supplemental Fire Services or staffing for special events, anticipated weather events, or operational capacity. Minimum staffing level for District shall be (3) members per Engine Company. Due to staffing, 9 (nine) positions will be allocated.
2. The Union will not consider a reduction in the staffing model noted above.

**Article 26. PROBATION**

1. Newly hired District employees shall serve a one (1) year probationary period.
2. Employees currently on probation will be considered probationary employees for all rules and regulations regarding their probationary status. Further, probationary employees shall pass all testing and requirements of the Fire Department.
3. Employees not on probation at the time of this agreement shall be entitled to the Firefighter Bill of Rights.

This Letter of Understanding shall become effective upon ratification by the effective membership of the Union and by the Modesto City Council.

CITY OF MODESTO

By: \_\_\_\_\_ Dated: \_\_\_\_\_  
Christina Alger  
Director of Human Resources

MODESTO FIREFIGHTERS, IAFF Local 1289

By: \_\_\_\_\_ Dated: \_\_\_\_\_  
Ruben Esparza  
President, MCFFA Local 1289

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2022-372**

**RESOLUTION AMENDING THE POSITION ALLOCATION FOR FISCAL  
YEAR 2022-23 AS ADOPTED IN THE OPERATING BUDGET**

WHEREAS, a Position Allocation for the City of Modesto was adopted by Modesto City Council on June 07, 2022, as part of the Annual Budget of the City of Modesto for Fiscal Year 2022-23, and

WHEREAS, classifications are being added per the contract for fire services with the Salida Fire Protection District, and

WHEREAS, position changes will be effective the first day of the pay period upon adoption, unless otherwise noted, and

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves amending the Position Allocation and the Fiscal Year 2022-23 Operating Budget for the Modesto Fire Department as follows:

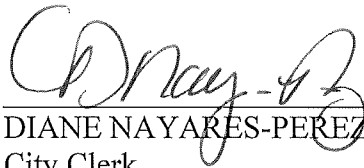
1. Add three (3) Firefighters in the Fire Services for Salida Division (18217) of the Modesto Fire Department.
2. Add three (3) Fire Engineers in the Fire Services for Salida Division (18217) of the Modesto Fire Department.
3. Add three (3) Fire Captains in the Fire Services for Salida Division (18217) of the Modesto Fire Department.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 13th day of September, 2022, by Councilmember Kenoyer, who moved its adoption, which motion being duly seconded by Councilmember Ricci, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Escutia-Braaton, Kenoyer, Madrigal, Ricci, Wright, Mayor Zwahlen

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST:   
DIANE NAYARES-PEREZ, CMC,  
City Clerk

(SEAL)

APPROVED AS TO FORM:

BY:   
JOSE M. SANCHEZ, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2022-373**

**RESOLUTION APPROVING AN APPLICATION TO THE STANISLAUS  
LOCAL AGENCY FORMATION COMMISSION TO CONFIRM THE CITY OF  
MODESTO'S FIRE SERVICE CONTRACT WITH THE SALIDA FIRE  
PROTECTION DISTRICT AND AUTHORIZING THE CITY MANAGER, OR  
HIS DESIGNEE, TO EXECUTE THE APPLICATION**

WHEREAS, effective January 1, 2016, Government Code Section 56134 requires fire protection contracts or agreements for the exercise of new or extended fire protection services outside a public agency's jurisdictional boundaries to be reviewed by the Local Agency Formation Commission, and

WHEREAS, on September 13, 2022, by Resolution 2022-XXX, the City Council approved an agreement to provide fire protection services between to the City of Modesto and the Salida Fire Protection District, and

WHEREAS, this Resolution of Application is proposed pursuant to Government Code Section 56134(c), and

WHEREAS, pursuant to Government Code Section 56134(e) and 56134(f), a plan for services and independent fiscal analysis shall be prepared and submitted with the application, and

WHEREAS, the application for review of a fire service contract is considered exempt from the California Environmental Quality Act under the General Rule, Section 15061(b)(3) as it can be seen with certainty that there will not be a significant effect on the environment.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the application to the Local Agency Formation Commission to

confirm the City of Modesto's fire service contract with the Salida Fire Protection District.

BE IT FURTHER RESOLVED by the Council of the City of Modesto that the City Manager or designee is hereby authorized to execute the application.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 13th day of September, 2022, by Councilmember Kenoyer, who moved its adoption, which motion being duly seconded by Councilmember Ricci, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Escutia-Braaton, Kenoyer, Madrigal, Ricci, Wright, Mayor Zwahlen

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST:

  
DIANE NAYARES-PÉREZ, CMC,  
City Clerk

(SEAL)

APPROVED AS TO FORM:

BY:   
JOSE M. SANCHEZ, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2022-374**

**RESOLUTION AMENDING THE FISCAL YEAR 2022-23 ANNUAL  
OPERATING BUDGET TO INCREASE THE REVENUE BUDGET BY  
\$1,727,016 AND EXPENSE BUDGET BY \$1,677,016 IN THE NEW GENERAL  
FUND COST CENTER 18217 (MFD – FIRE SERVICES FOR SALIDA), AND  
AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO IMPLEMENT  
THE PROVISIONS OF THIS RESOLUTION**

WHEREAS, the Salida Fire Protection District (District) authorized staff to explore contract fire services agreement discussions with the City of Modesto; and

WHEREAS, the following services within the District’s jurisdictional boundaries are in discussion to being added as part of the contract services: fire protection, prevention, suppression services, and related services such as emergency medical services, emergency preparedness, mitigation of hazardous materials incidents, and special operations including, but not limited to, confined space rescue, technical rescue and water rescue; and

WHEREAS, the District has requested to contract with the City of Modesto for services beyond its current jurisdictional boundaries; and

WHEREAS, in response to this request City staff has conducted an in-depth assessment of the staffing and resources required to support the request of the District and determined the required costs and supporting revenue that would be required to sustain this five-year contract with the district for said services.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves amending the Fiscal Year 2022-23 Annual Operating Budget to increase the revenue budget by \$1,727,016 and expense budget by \$1,677,016 in the new General Fund cost center 18217 (MFD – Fire Services for Salida).

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 13th day of September, 2022, by Councilmember Kenoyer, who moved its adoption, which motion being duly seconded by Councilmember Ricci, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Escutia-Braaton, Kenoyer, Madrigal, Ricci, Wright, Mayor Zwahlen

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST:   
DIANE NAYARES-PEREZ, CMC,  
City Clerk

(SEAL)

APPROVED AS TO FORM:

BY:   
JOSE M. SANCHEZ, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2022-375**

**RESOLUTION APPROVING AN AGREEMENT WITH CSG CONSULTANTS, INC. FOR FIRE PREVENTION PLAN CHECK SERVICES, FOR A TWO-YEAR AGREEMENT, WITH THREE (3) ONE-YEAR EXTENSION OPTIONS, FOR AN ANNUAL ESTIMATED AMOUNT OF \$75,000 AND TOTAL AMOUNT NOT TO EXCEED \$375,000, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE TO EXECUTE THE AGREEMENT**

WHEREAS, Modesto Fire Department Fire Prevention Division is responsible for reviewing plans for new and updated fire alarm and sprinkler systems; and

WHEREAS, these plan checks are a required step for opening new businesses within the City of Modesto; and

WHEREAS, with the recent contract for fire services with City of Ceres, the department is responsible for reviewing plans for a greater service area, in turn, causing a steep incline in work volume; and

WHEREAS, the Fire Prevention Division is in need of a third-party reviewer in order to meet standard deadlines and maintain customer expectations; and

WHEREAS, Modesto Fire Department has been using the services of CSG Consultants, Inc. since 2018, and the most recent agreement expired on July 1, 2020; and

WHEREAS, the department seeks to enter into a new agreement with CSG Consultants, Inc. in order to ensure efficiency of the plan check processes; and

WHEREAS, the initial term of the agreement is for two (2) years, with the option of three (3) one-year extensions; and

WHEREAS, Modesto Municipal Code Section 8-3.203 generally requires all purchases, which meet or exceed \$50,000 for material, equipment or contractual services to be formally bid. However, exceptions to the formal bidding process are granted in

MMC 8-3.204(d) “Where the Purchasing Manager, in her discretion, determines 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.” MMC 8-3.202(d) permits the Purchasing Manager to utilize the “piggybacking” from a competitive bid process with the City of Gilroy, CA when the best cost savings interest of the City be served. Here, this exemption is satisfied because the City of Gilroy, CA Request for Proposal No. 21-RFP-CDD-453 for On-Call Standard and Expedited Building, Fire Plan Check and Inspections Services went through a formal competitive bidding process. In addition, MMC 8-3.202(h) encouraged the Purchasing Manager to join with the State of California and other units of government in cooperative purchasing plans when the best cost savings interest of the City would be served. Based on providing the overall responsive and responsible bid, City staff recommends an agreement with CSG Consultants, which conforms to the Modesto Municipal Code 8-3.202(h); and

WHEREAS, funds are fully budgeted for each Fiscal Year in the following appropriation units: General Fund – Modesto Fire (0100-18210-52160); General Fund – Ceres (0100-18213-52160).

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves an Agreement with CSG Consultants, Inc. for Fire Prevention Plan Check Services, for a two-year Agreement, with three (3) one-year extension options, for an annual estimated amount of \$75,000 and total amount not to exceed \$375,000

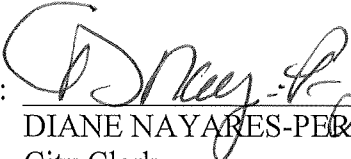
BE IT FURTHER RESOLVED that the City Manager or designee is hereby authorized to execute the agreement, in a form approved by the City Attorney.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 13th day of September, 2022, by Councilmember Kenoyer, who moved its adoption, which motion being duly seconded by Councilmember Ricci, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Escutia-Braaton, Kenoyer, Madrigal, Ricci, Wright, Mayor Zwahlen

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST:   
DIANE NAYARES-PEREZ, CMC,  
City Clerk

(SEAL)

APPROVED AS TO FORM:

BY:   
JOSE M. SANCHEZ, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2022-376**

**RESOLUTION APPROVING AGREEMENTS WITH KRAMER WORKPLACE INVESTIGATIONS, DANVILLE, CA; ELLIS INVESTIGATIONS LAW CORPORATION, SACRAMENTO, CA, OPPENHEIMER INVESTIGATIONS GROUP LLP, BERKELEY, CA, ARMISTEAD RESEARCH AND INVESTIGATIONS, ORANGEVALE, CA; AND MUNICIPAL RESOURCE GROUP, LLC, WILTON, CA TO CONDUCT CITYWIDE ADMINISTRATIVE INVESTIGATIONS ON AN AS NEEDED BASIS, IN AN AMOUNT NOT TO EXCEED \$100,000 EACH FOR TWO YEARS AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE TO EXECUTE THE AGREEMENTS**

WHEREAS, the City conducts internal and external administrative investigations into possible employee misconduct that may lead to discipline, and

WHEREAS, investigations range in complexity and include comprehensive interviews of witnesses and potential subjects of the alleged wrong-doing and the interviewer must comply with various legal standards, and

WHEREAS, the City has utilized the services of outside agencies to conduct some of their administrative investigations, and

WHEREAS, with approval from the City Manager, the Human Resources Department sent out a Request for Proposals (RFP) for confidential investigative services, and

WHEREAS, in partnership with the City Attorney's Office, all proposals have been reviewed and staff recommends contracts with multiple investigative firms, affording the City the specialized expertise needed to address the various investigative issues that arise during the term of these agreements, and

WHEREAS, the selection of the consultants to perform confidential investigative services is exempt from formal bidding requirements pursuant to Modesto Municipal Code 8-3.204 (a) as they are providing professional legal services.

NOW, THEREFORE BE IT RESOLVED that the City Council of the City of Modesto hereby approves Legal Services Agreements for Citywide Administrative Investigations on an as-needed basis with Kramer Workplace Investigations, Danville, CA; Ellis Investigations Law Corporation, Sacramento, CA; and Oppenheimer Investigations Group LLP , Berkeley, CA and Consultant Agreements with Armistead Research and Investigations, Orangevale, CA; and Municipal Resource Group, LLC, Wilton, CA for a two year agreement, for total amount not to exceed of \$100,000 each.

BE IT FURTHER RESOLVED that the City Manager, or his designee is authorized to execute the agreements, in a form approved by the City Attorney.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 13th day of September, 2022, by Councilmember Kenoyer, who moved its adoption, which motion being duly seconded by Councilmember Ricci, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Escutia-Braaton, Kenoyer, Madrigal, Ricci, Wright, Mayor Zwahlen

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST:   
DIANE NAYARES-PEREZ, CMC,  
City Clerk

(SEAL)

APPROVED AS TO FORM:

BY:   
JOSE M. SANCHEZ, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2022-377**

**RESOLUTION APPROVING AN AMENDMENT TO THE PURCHASE AGREEMENT WITH MANSFIELD, LIERLY & ASSOCIATES, CITRUS HEIGHTS, CA, FOR ADDITIONAL POLYGRAPH EXAMINATIONS, BY \$26,800 ANNUALLY FOR A REVISED ESTIMATED ANNUAL AMOUNT OF \$72,025 AND A REVISED TOTAL AMOUNT NOT TO EXCEED \$189,275**

WHEREAS, on February 2, 2021, the City Council approved, by Resolution No. 2021-029, an agreement for polygraph services with Mansfield, Lierly & Associates of Citrus Heights, CA for a one (1) year agreement with two (2) one-year extension options, for an annual estimated cost of \$45,225 and a total amount not to exceed \$135,675 over three years, based on 135 polygraphs exams annually; and

WHEREAS, the hiring process for both sworn and non-sworn employees is a long and extensive process of which the polygraph exam is an early and critical screening tool; and

WHEREAS, due to a significant increase in vacancies, the department has been processing a higher than usual volume of candidates through the hiring process and therefore sending a higher than anticipated number of candidates through the polygraph phase of hiring; and

WHEREAS, due to the vast array of candidates, the department is also experiencing a higher failure rate at the polygraph phase of hiring; and

WHEREAS, the Modesto Police Department seeks approval to increase the amount of the Purchasing Agreement by \$26,800 for additional polygraph examinations for a revised estimated annual amount of \$72,025 and a revised total amount not to exceed \$189,275.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves an amendment to the Purchasing Agreement with Mansfield, Lierly & Associates, Citrus Heights, CA, for additional polygraph examinations, for a revised estimated annual amount of \$72, 025 and a revised total amount not to exceed \$189,275.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 13th day of September, 2022, by Councilmember Kenoyer, who moved its adoption, which motion being duly seconded by Councilmember Ricci, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Escutia-Braaton, Kenoyer, Madrigal, Ricci, Wright, Mayor Zwahlen

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST:   
DIANE NAYARÉS-PÉREZ, CMC,  
City Clerk

(SEAL)

APPROVED AS TO FORM:

BY:   
JOSE M. SANCHEZ, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2022-378**

**RESOLUTION APPROVING A TEN-YEAR LEASE WITH COMMEMORATIVE AIR FORCE (CAF) AS A NON-PROFIT SERVICE PROVIDER AT THE MODESTO CITY-COUNTY AIRPORT (MOD), AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE TO EXECUTE THE LEASE AGREEMENT**

WHEREAS, the Commemorative Air Force (CAF) was founded to acquire, restore and preserve in flying condition a complete collection of combat aircraft which were flown by all military services of the United States; and

WHEREAS, CAF also provides a museum for the permanent protection and display of these aircraft as a tribute to the thousands of men and women who built, serviced and flew them; and

WHEREAS, CAF has occupied Hangar No 1S since 2006 providing considerable improvements; and

WHEREAS, in 2019 CAF began a large-scale rehabilitation of the historic Hangar No 1S with completion in 2022 totaling \$189,131; and

WHEREAS, CAF would like to enter into a ten-year lease agreement where they would receive monthly credit towards the lease amount for the completed improvements for the term of their lease; and

WHEREAS, the lease agreement is expected to provide revenues of approximately \$2,940 annually in rents to the Airport Enterprise; and

WHEREAS, CAF agrees that if the lease is terminated prior to the end of the period, any and all in-kind and donated improvements would be forfeited and become the property of the City.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the 10-year Airport Lease Agreement for the use of Hangar No. 1S between the City of Modesto and Commemorative Air Force, a non-profit service provider.

BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to execute the Lease Agreement, in a form approved by the City Attorney.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 13th day of September, 2022, by Councilmember Kenoyer, who moved its adoption, which motion being duly seconded by Councilmember Ricci, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Escutia-Braaton, Kenoyer, Madrigal, Ricci, Wright, Mayor Zwahlen  
NOES: Councilmembers: None  
ABSENT: Councilmembers: None

ATTEST:   
DIANE NAYARES-PÉREZ, CMC,  
City Clerk

(SEAL)

APPROVED AS TO FORM:

BY:   
JOSE M. SANCHEZ, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2022-379**

**RESOLUTION APPROVING THE CONSULTANT AGREEMENT TO DAVEY RESOURCE GROUP FOR CALFIRE URBAN AND COMMUNITY FORESTRY CALIFORNIA CLIMATE INVESTMENTS, “CITY OF MODESTO URBAN FOREST SERVICES (21-UF-MGMT-004)” FOR AN AMOUNT NOT TO EXCEED \$604,585 AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE AGREEMENT**

WHEREAS, the City of Modesto has been a Tree City USA for 38 years and has been committed to planting, maintaining, and preserving the City’s urban forest in partnership with citizens, community groups, and local businesses; and

WHEREAS, in 1980, Modesto implemented a policy change towards area/grid maintenance that would see trees pruned every seven years. The effort was successful, with 70% of tree maintenance completed on a programmed basis; and

WHEREAS, since 1980, Modesto’s population has doubled, and an aging tree canopy, years of drought and rising operational costs have made it increasingly difficult for staff to maintain tree maintenance goals, while simultaneously responding to rising public requests for on-demand tree services; and

WHEREAS, although the City has written a Street Tree Maintenance Plan, it is over twenty years old and requires updating in order to incorporate current industry standards. In addition, the City does not have a long-term tree management plan, also known as an Urban Forestry Master Plan (UFMP); and

WHEREAS, in support of the effort, the City Manager authorized the Purchasing Manager to issue formal Request for Proposals (RFP) for Consultant Assistance for the City of Modesto Urban Forest Management Project; and

WHEREAS, on May 17, 2021, the City of Davis issued an RFP for Urban Forest Management Plan on the City of Davis website. The RFP was also advertised and distributed to 21 vendors; and

WHEREAS, on August 31, 2021, proposals were formally opened at the City of Davis, Clerks Office, and based on the evaluation criteria and scoring, the City of Davis Proposals Review Committee awarded, a consultant agreement to Davey Resource Group; and

WHEREAS, in accordance with Modesto Municipal Code 8-3.203, the code generally requires all purchases that meet or exceed \$50,000 for material, equipment or contractual services to be formally bid. However, exceptions to the formal bidding process are granted in MMC 8-3.204(d) “Where the Purchasing Manager, in her discretion, determines that a process other than the formal bid procedure set for in Section 8-3.203 will result in a procurement for the City at the lowest possible cost commensurate with the desired quality.” In addition, MMC 8-3.202(h) encourages the Purchasing Manager to join with the State of California or other units of government in cooperative purchasing plans when the cost savings interest of the City would be served. By utilizing the City of Davis RFP, the City is utilizing these exceptions; and

WHEREAS, the award of Davey Resource Group will allow the City of Modesto, Forestry Division to start the process of its own UFMP by performing the Public Tree Inventory and setting up the i-Tree Software database.

NOW, THEREFORE, BE IT RESOLVED, by the Council of the City of Modesto that it hereby approves the Consultant Agreement to Davey Resource Group for CALFIRE Urban and Community Forestry California Climate Investments, “City of

Modesto Urban Forest Services (21-UF-MGMT-004)” for an amount not to exceed \$604,585.

BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to execute the consultant agreement and all related documents, in a form approved by the City Attorney.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 13th day of September, 2022, by Councilmember Kenoyer, who moved its adoption, which motion being duly seconded by Councilmember Ricci, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Escutia-Braaton, Kenoyer, Madrigal, Ricci, Wright, Mayor Zwahlen

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST:   
DIANE NAYARES-PEREZ, CMC,  
City Clerk

(SEAL)

APPROVED AS TO FORM:

BY:

  
JOSE M. SANCHEZ, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2022-380**

**RESOLUTION AUTHORIZING STAFF TO APPLY FOR THE CALIFORNIA  
STRATEGIC GROWTH COUNCIL'S REGIONAL CLIMATE  
COLLABORATIVES PROGRAM GRANT**

WHEREAS, California Strategic Growth Council was created in 2008 to coordinate and collaborate with public agencies, communities, and stakeholders to achieve sustainability, equity, economic prosperity, and quality of life for all Californians; and

WHEREAS, the Regional Climate Collaboratives Program (RCCP) is a capacity-building grant designed to deepen relationships between local agencies, community-based organizations, non-profits, and other stakeholders to develop processes, plans, and projects that drive and sustain climate action; and

WHEREAS, the City of Modesto intends to submit an application proposing the expansion of existing programs that divert waste from landfill, reducing the emissions from breakdown of organic waste and preserving limited landfill space in California; and

WHEREAS, the City of Modesto submitted the RCCP pre-proposal application, and the final grant application is due October 15, 2022.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby authorizes staff to apply for the California Strategic Growth Council's Regional Climate Collaboratives Program Grant.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 13th day of September, 2022, by Councilmember Kenoyer, who moved its adoption, which motion being duly seconded by Councilmember Ricci, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Escutia-Braaton, Kenoyer, Madrigal, Ricci, Wright, Mayor Zwahlen

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST:   
DIANE NAYARES-PEREZ, CMC,  
City Clerk

(SEAL)

APPROVED AS TO FORM:

BY:   
JOSE M. SANCHEZ, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2022-381**

**RESOLUTION AUTHORIZING STAFF TO APPLY FOR THE SAFE STREETS AND ROADS FOR ALL GRANT, STRENGTHENING MOBILITY AND REVOLUTIONIZING TRANSPORTATION GRANT, AND APPLY FOR ANY FUTURE RELATED GRANTS**

WHEREAS, the Bipartisan Infrastructure Law<sup>1</sup> (BIL) established a new Safe Streets and Roads for All (SS4A) Grant program with \$5 billion in appropriated funds over the next five years; and

WHEREAS, the primary goal of the SS4A grants is to improve roadway safety by supporting communities in developing comprehensive safety action plans based on a “Safe System Approach”, and implementing projects and strategies that significantly reduce or eliminate transportation-related fatalities and serious injuries involving pedestrians, bicyclists, public transportation, commercial vehicle operators, and motorists; and

WHEREAS, in fiscal year 2022 (FY22), up to \$1 billion is available; and

WHEREAS, the BIL also established the Strengthening Mobility and Revolutionizing Transportation (SMART) discretionary grant program with \$100 million appropriated annually for fiscal years (FY) 2022-2026; and

WHEREAS, the SMART program was established to provide grants to eligible public sector agencies to conduct demonstration projects focused on advanced smart community technologies and systems in order to improve transportation efficiency and safety; and

WHEREAS, the SMART Grants Program is divided into two stages; and

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<sup>1</sup> <https://www.fhwa.dot.gov/bipartisan-infrastructure-law/>

WHEREAS, during Stage 1, public sector project leaders can build internal buy-in and partnerships with public, private, academic, nonprofit, and community organizations and community networks to refine and prototype their concepts as well as report on results; and

WHEREAS, Stage 2 will provide funding for projects that are designed to result in a scaled-up demonstration of the concept, integrating it with the existing transportation system, and refining the concept such that it could be replicated by others; and

WHEREAS, United States Department of Transportation (USDOT) expects that only recipients of Stage 1: Planning and Prototyping Grants will be eligible for Stage 2: Implementation Grants in the following fiscal year; and

WHEREAS, for the FY22 funding opportunity, USDOT expects to award 30 to 50 Stage 1 grants.

NOW, THEREFORE BE IT RESOLVED, by the Council of the City of Modesto that it hereby authorizes staff to apply for the Safe Streets and Roads for All Grant and Strengthening Mobility and Revolutionizing Transportation Grant.


BE IT FURTHER RESOLVED, by the Council of the City of Modesto that it hereby authorizes staff to apply for any future related Grants.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 13th day of September, 2022, by Councilmember Kenoyer, who moved its adoption, which motion being duly seconded by Councilmember Ricci, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Escutia-Braaton, Kenoyer, Madrigal, Ricci, Wright, Mayor Zwahlen

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST:   
DIANE NAYARES-PEREZ, CMC,  
City Clerk

(SEAL)

APPROVED AS TO FORM:

BY:   
JOSE M. SANCHEZ, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2022-382**

**RESOLUTION APPROVING PLANS AND SPECIFICATIONS FOR THE SONOMA TRUNK EXTENSION, LIFT STATION AND SYLVAN WATER MAIN UPGRADE PROJECT, ACCEPTING THE BID, AND APPROVING A CONSTRUCTION CONTRACT WITH MOZINGO CONSTRUCTION INC, OF OAKDALE, CA, IN THE AMOUNT OF \$7,981,830 PLUS \$957,821 FOR CONTINGENCY (IF NEEDED) FOR A TOTAL AMOUNT NOT TO EXCEED \$8,939,651 AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE AGREEMENT**

WHEREAS, the Sonoma Trunk Extension, Lift Station and Sylvan Water Main Project will provide new gravity sewer mains to service existing and future development, and

WHEREAS, as well as a new Lift Station to convey the wastewater along Sylvan Ave into the existing Sonoma Trunk, and

WHEREAS, the Tivoli Master Plan calls for water main upgrades to serve the future Tivoli development, and

WHEREAS, the water upgrades for this project will include replacing of existing 8-inch undersized water mains with new 12-inch water mains, and

WHEREAS, specifications have been prepared for the Sonoma Trunk Extension, Lift Station and Sylvan Water Main Project, and

WHEREAS, the Project was re-advertised for bids on June 28, 2022, and

WHEREAS, on August 9<sup>th</sup>, 2022, bids were publicly opened, pursuant to City Charter Section 1307, four bids were received and Mozingo Construction Inc, of Oakdale, CA, was the responsible bidder with the lowest responsive bid, and

WHEREAS, MMC 8-3.203 states that all purchases, in excess of fifty thousand dollars (\$50,000), or when directed by the City Manager for any purchase of fifty thousand dollars (\$50,000) or less, shall follow formal bid procedures, and

WHEREAS, and the award of bid for the Sonoma Trunk Extension, Lift Station and Sylvan Water Main Project conforms to the Modesto Municipal code based on providing the overall lowest cost, while providing improved service, and

WHEREAS, the Director of Utilities has recommended that the bid of \$7,981,830 received from Mozingo Construction Inc, of Oakdale, CA, be accepted as the lowest responsible and responsive bid and the contract be awarded to Mozingo Construction Inc, of Oakdale, CA.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the plans and specifications for the Rebid Plant Structural Improvements Project and accepts the bid of \$7,981,830 plus \$957,821 for contingency (if needed) for a total amount not to exceed \$8,939,651 and awards Mozingo Construction Inc, of Oakdale, CA, the contract for the Sonoma Trunk Extension, Lift Station and Sylvan Water Main Project.

BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to execute the contract, in a form approved by the City Attorney.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 13th day of September, 2022, by Councilmember Kenoyer, who moved its adoption, which motion being duly seconded by Councilmember Ricci, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Escutia-Braaton, Kenoyer, Madrigal, Ricci, Wright, Mayor Zwahlen

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST:   
DIANE NAYARES-PEREZ, CMC,  
City Clerk

(SEAL)

APPROVED AS TO FORM:

BY:   
JOSE M. SANCHEZ, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2022-383**

**RESOLUTION AUTHORIZING AN INCREASE IN THE DIRECTOR'S  
AUTHORITY TO ISSUE CHANGE ORDERS FOR THE SONOMA TRUNK  
EXTENSION, LIFT STATION AND SYLVAN WATER MAIN UPGRADE  
PROJECT FROM 8% (\$638,547) TO 12% (\$957,821) OF THE CONSTRUCTION  
CONTRACT PRICE OF \$7,981,830 WITH MOZING CONSTRUCTION INC, OF  
OAKDALE, CA**

WHEREAS, the City's "Change Order Approval Policy", enacted by Council Resolution No. 94-443 on July 19, 1994, and updated by Resolution No. 2019-326 on July 9, 2019, established a contract change order budget of 8% for projects with the construction value between \$1 Million and \$10 Million, and

WHEREAS, given the nature, complexity and duration of this project being a highly traveled road that will involve road closures, multiple existing underground utility lines with multiple unknowns, additional work may be needed to address unexpected conditions that require changes in the project scope that may exceed the Director's Authority of 8% (\$638,547) of the contract amount of \$7,981,830, and

WHEREAS, staff is requesting authorization to increase the Directors authority to issue change orders to 12% (\$957,821) of the contract amount of \$7,981,830 total over five years, due to the nature and duration of the project as well as the unknown challenges.

NOW, THEREFORE BE IT RESOLVED by the Council of the City of Modesto that it hereby authorizes the Director of Utilities to issue change orders for Sonoma Trunk Extension, Lift Station and Sylvan Water Main Project from 8% (\$638,547) to 12% (\$957,821) of the construction contract price of \$7,981,830 with Mazingo Construction Inc, of Oakdale, CA.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 13th day of September, 2022, by Councilmember Kenoyer, who moved its adoption, which motion being duly seconded by Councilmember Ricci, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Escutia-Braaton, Kenoyer, Madrigal, Ricci, Wright, Mayor Zwahlen

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST:   
DIANE NAYARES-PEREZ, CMC,  
City Clerk

(SEAL)

APPROVED AS TO FORM:

BY:   
JOSE M. SANCHEZ, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2022-384**

**RESOLUTION AMENDING THE FISCAL YEAR 2022-2023 CAPITAL IMPROVEMENT PROGRAM BUDGET IN THE AMOUNT OF \$5,526,488 TO BE TRANSFERRED INTO THE PROJECT FROM WASTEWATER RESERVES TO FULLY FUND THE CONSTRUCTION, CONTINGENCY, CONSTRUCTION ADMINISTRATION AND DESIGN SUPPORT DURING CONSTRUCTION FOR THE SONOMA TRUNK EXTENSION AND LIFT STATION PROJECT AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO IMPLEMENT THE PROVISIONS OF THIS RESOLUTION**

WHEREAS, on August 9<sup>th</sup>, 2022, bids were publicly opened, pursuant to City Charter Section 1307, and

WHEREAS, four bids were received, and

WHEREAS, in order to fully fund the construction, contingency, construction administration and design support during construction for the Sonoma Trunk Extension and Lift Station Project, and

WHEREAS, the Fiscal Year 2022-23 Capital Improvement Program Budget must be amended.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the amendment of the Fiscal Year 2022-23 Capital Improvement Program Budget in the amount of \$5,526,488 to be transferred into the project from Wastewater Fund Reserves.

BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to implement the provisions of this resolution.

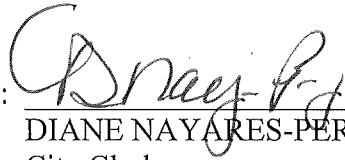
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 13th day of September, 2022, by Councilmember Kenoyer, who moved its adoption, which motion being duly seconded by Councilmember Ricci, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Escutia-Braaton, Kenoyer, Madrigal, Ricci, Wright, Mayor Zwahlen

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST:



DIANE NAYARES-PEREZ, CMC,  
City Clerk

(SEAL)

APPROVED AS TO FORM:

BY:



JOSE M. SANCHEZ, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2022-385**

**RESOLUTION AMENDING THE FISCAL YEAR 2022-2023 CAPITAL IMPROVEMENT PROGRAM BUDGET IN THE AMOUNT OF \$828,472 TO BE TRANSFERRED INTO THE PROJECT (101367) FROM WATER RESERVES TO FULLY FUND THE CONSTRUCTION, CONTINGENCY, CONSTRUCTION ADMINISTRATION AND DESIGN SUPPORT DURING CONSTRUCTION FOR THE SYLVAN WATER MAIN UPGRADE PROJECT AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO IMPLEMENT THE PROVISIONS OF THIS RESOLUTION**

WHEREAS, on August 9<sup>th</sup>, 2022, bids were publicly opened, pursuant to City Charter Section 1307, four bids were received and Mazingo Construction Inc, of Oakdale, CA, was the responsible bidder with the lowest responsive bid, and

WHEREAS, in order to fully fund the construction, contingency, construction administration and design support during construction for the Sylvan Water Main Project, and

WHEREAS, the Fiscal Year 2022-2023 Capital Improvement Program Budget must be amended.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the amendment of the Fiscal Year 2022-2023 Capital Improvement Program Budget in the amount of \$828,472 to be transferred into the project from Water Fund Reserves.


BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to implement the provisions of this resolution.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 13th day of September, 2022, by Councilmember Kenoyer, who moved its adoption, which motion being duly seconded by Councilmember Ricci, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Escutia-Braaton, Kenoyer, Madrigal, Ricci, Wright, Mayor Zwahlen

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST:   
DIANE NAYARES-PÉREZ, CMC,  
City Clerk

(SEAL)

APPROVED AS TO FORM:

BY:

  
JOSE M. SANCHEZ, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2022-386**

**RESOLUTION APPROVING AN AGREEMENT WITH CAROLLO ENGINEERS, INC., WALNUT CREEK, CA, FOR ENGINEERING SERVICES FOR THE WEST TRUNK REHABILITATION PROJECT IN THE AMOUNT OF \$984,404 FOR THE IDENTIFIED SCOPE OF SERVICES, PLUS \$98,440 IN ADDITIONAL SERVICES, IF NEEDED, FOR A TOTAL AMOUNT NOT TO EXCEED \$1,082,844 AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE AGREEMENT**

WHEREAS, the West Trunk is one of the City's five major trunk lines that convey flows to the Sutter Avenue Wastewater Treatment Plant, and

WHEREAS, the Wastewater Collection System Master Plan (WWCMP) includes the rehabilitation of the West Trunk from the Woodland Lift Station to the Dryden Box at the Sutter Wastewater Treatment Plant, and

WHEREAS, the main objective of this high priority rehabilitation project is to preserve existing pipe integrity and extend its useful life, and

WHEREAS, in accordance with Modesto Municipal Code 8-3.204(a) Exceptions to Formal Bidding Requirements, this agreement is for professional services and, therefore, exempt from the bid requirement, and

WHEREAS, staff recommends approval of an agreement with Carollo Engineers, Inc., of Walnut Creek, CA for Engineering Services for the West Trunk Rehabilitation Project.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves an agreement with Carollo Engineers, Inc., of Walnut Creek, CA for Engineering Services for the West Trunk Rehabilitation Project in the amount of \$984,404, for the identified scope of services, plus \$98,440 in additional services, if needed, for a total not to exceed amount of \$1,082,844.

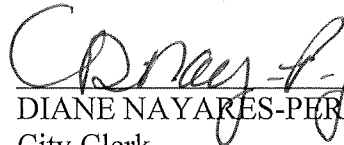
BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to execute the agreement in a form approved by the City Attorney.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 13th day of September, 2022, by Councilmember Kenoyer, who moved its adoption, which motion being duly seconded by Councilmember Ricci, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Escutia-Braaton, Kenoyer, Madrigal, Ricci, Wright, Mayor Zwahlen

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST:   
DIANE NAYARES-PÉREZ, CMC,  
City Clerk

(SEAL)

APPROVED AS TO FORM:

BY:   
JOSE M. SANCHEZ, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2022-387**

**RESOLUTION APPROVING AN AGREEMENT WITH PROVOST & PRITCHARD CONSULTING GROUP, MODESTO, CA, FOR ENGINEERING SERVICES FOR THE EMPIRE WELL 312 TREATMENT SYSTEM PROJECT IN THE AMOUNT OF \$147,000 FOR THE IDENTIFIED SCOPE OF SERVICES, PLUS \$14,700 IN ADDITIONAL SERVICES, IF NEEDED, FOR A TOTAL AMOUNT NOT TO EXCEED \$161,700 AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE AGREEMENT**

WHEREAS, the Empire Service Area is located in the far southeastern corner of the City of Modesto's contiguous water service area and was originally part of the Del Este Water Company, and

WHEREAS, the existing water service area is largely provided by five groundwater wells and is supplemented by treated surface water delivered by the Modesto Irrigation District, and

WHEREAS, in October 2016, one of the five wells in the Empire Service Area, Well 312, was turned off due to exceeding the maximum contaminant levels (MCL) for 1,2,3-Trichloropropane (TCP), and

WHEREAS, in Summer 2017, the City conducted a hydraulic evaluation of the Empire Service Area to determine if peak hour demand conditions could be met with or without supply from five existing local wells, and

WHEREAS, the analysis confirmed that the existing wells are required to maintain operation, and

WHEREAS, in order to decrease the MCL levels of TCP and bring the well back online, granular activated carbon (GAC) treatment is required, and

WHEREAS, in accordance with Modesto Municipal Code 8-3.204(a) Exceptions to Formal Bidding Requirements, this agreement is for professional services and, therefore, exempt from the bid requirement, and

WHEREAS, staff recommends approval of an agreement with Provost & Pritchard Consulting Group, of Modesto, CA for Engineering Services for the Empire Well 312 Treatment System Project.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves an agreement with Provost & Pritchard Consulting Group, of Modesto, CA for Engineering Services for the Empire Well 312 Treatment System Project in the amount of \$147,000, for the identified scope of services, plus \$14,700 in additional services, if needed, for a total not to exceed amount of \$161,700.

BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to execute the agreement in a form approved by the City Attorney.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 13th day of September, 2022, by Councilmember Kenoyer, who moved its adoption, which motion being duly seconded by Councilmember Ricci, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Escutia-Braaton, Kenoyer, Madrigal, Ricci, Wright, Mayor Zwahlen

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST:   
DIANE NAYARES-PEREZ, CMC,  
City Clerk

(SEAL)

APPROVED AS TO FORM:

BY:   
JOSE M. SANCHEZ, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2022-388**

**RESOLUTION APPROVING THE AWARD OF BID FOR PUMP STATION REJUVENATION SERVICES TO DON PEDRO PUMP, HUGHSON, CA, FOR A TWO-YEAR AGREEMENT WITH THREE ONE-YEAR EXTENSION OPTIONS FOR AN ESTIMATED ANNUAL AMOUNT OF \$350,000, AND \$1,974,350 OVER FIVE YEARS, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE AGREEMENT**

WHEREAS, the City Manager authorizes the Purchasing Manager to issue formal Request for Bids (RFB) for pump station rejuvenation services, and

WHEREAS, on December 28, 2021, the Purchasing Division issued RFB No. 2021-68 Pump Station Rejuvenation Services on the City's website under the commodity codes for pumps and pump accessory maintenance and repair, twenty-six companies chose to download the RFB document, and

WHEREAS, on January 25, 2022 bids were formally opened in the City Clerk's Office. Three (3) companies chose to respond, and

WHEREAS, based on providing the lowest and responsive and responsible bid received, City staff recommends the award of bid for pump station rejuvenation services, to Don Pedro Pump, Hughson, CA, for an estimated annual amount of \$350,000 and a total amount not to exceed \$1,974,350 over five years, and

WHEREAS, the Modesto Municipal Code Section 8.3-203 generally requires all purchases, which meet or exceed \$50,000 for material, equipment or contractual services, to be formally bid, and

WHEREAS, an award of bid and agreement for pump station rejuvenation services to Don Pedro Pump, Hughson, CA conforms to the Modesto Municipal Code,

because the City complied with the formal bid procedures and Don Pedro Pump, Hughson, CA was the lowest responsive and responsible bidder, and

WHEREAS, the cost for these services will be covered by the Water (4100), Wastewater (4210) and Stormwater Drain (4180) funds through existing budget with the first two years at an estimated amount of \$350,000 per year and the following three years are budgeted for a potential 10% percent annual increase in costs.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the award of bid for pump station rejuvenation services to Don Pedro Pump, Hughson, CA for a two-year agreement with three one-year extension options for an estimated annual amount of \$350,000, and a total amount of not to exceed \$1,974,350 over five years.

BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to execute the agreement, in a form approved by the City Attorney.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 13th day of September, 2022, by Councilmember Kenoyer, who moved its adoption, which motion being duly seconded by Councilmember Ricci, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Escutia-Braaton, Kenoyer, Madrigal, Ricci,  
Wright, Mayor Zwahlen

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST:   
DIANE NAYARES-PEREZ, CMC,  
City Clerk

(SEAL)

APPROVED AS TO FORM:

BY:

  
JOSE M. SANCHEZ, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2022-389**

**RESOLUTION APPROVING WATER CONSERVATION REBATE PROGRAM  
MODIFICATIONS FOR FY 22/23 TO INCREASE THE FUNDS BUDGETED  
FOR REBATES BY \$285,000 FROM \$430,000 TO \$715,000**

WHEREAS, previous droughts across California put water conservation into focus and resulted in state water agencies mandating reduction in water use by urban systems. Water conservation has become increasingly important in maintaining and protecting this resource to ensure the availability of safe drinking water to our communities for generations to come; and

WHEREAS, the City of Modesto's Water Conservation Program is focused on educating our customers and encouraging them to use water responsibly and eliminate water waste; and

WHEREAS, for several years, the City has been proactively educating customers about water use through increased advertising, providing information and educational materials at public events, and funding rebate incentives. Initially the rebate program included the High Efficiency Toilet and Washing Machine Rebates; and

WHEREAS, in 2015, the Residential Turf Replacement program was added, followed in 2016 by the Smart Irrigation Controller and Drip Irrigation Programs; and

WHEREAS, Water Rebate Program Modifications for FY 20/21 eliminated High Efficiency Nozzle and Rain Barrel rebates, and moved those funds into the Commercial Turf Rebate Program; and

WHEREAS, in accordance with newly adopted state legislation SB 606 and AB 1668, the state is mandating water agencies to set and meet new urban efficiency standards for indoor use, outdoor use and water lost due to leaks; and

WHEREAS, these new regulations will be put into effect in November 2023; and

WHEREAS, based on rebate trends, increased program utilization and water savings over the last few years, staff recommends increasing funds to the Drip Irrigation Program, High Efficiency Washing Machine Program, and the Residential and Commercial Turf Rebate Programs for a total increase of \$285,000.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves increasing the Water Conservation Rebate Program Modifications for FY 22/23 by \$285,000 from \$430,000 to \$715,000.

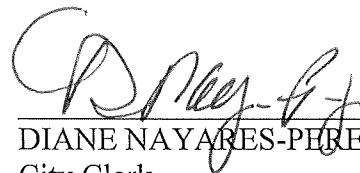
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 13th day of September, 2022, by Councilmember Wright, who moved its adoption, which motion being duly seconded by Councilmember Madrigal, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Escutia-Braaton, Kenoyer, Madrigal, Ricci, Wright, Mayor Zwahlen

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST:

  
\_\_\_\_\_  
DIANE NAYARES-PEREZ, CMC,  
City Clerk

(SEAL)

APPROVED AS TO FORM:

BY:

  
JOSE M. SANCHEZ, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2022-390**

**RESOLUTION AMENDING THE FISCAL YEAR 2022-23 WATER OPERATING BUDGET IN THE AMOUNT OF \$285,000 TO BE TRANSFERRED FROM WATER RESERVES AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO IMPLEMENT THE PROVISIONS OF THE RESOLUTION**

WHEREAS, certain budgetary transactions are necessary in the amount of \$285,000, in order to fully fund the increase in the rebate program; and

WHEREAS, the Fiscal Year 2022-2023 Water Operating Budget must be amended.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the amendment of the Fiscal Year 2022-2023 Water Operating Budget in the amount of \$285,000, to be transferred from Water Reserves.

BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to implement the provisions of this resolution.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 13th day of September, 2022, by Councilmember Wright, who moved its adoption, which motion being duly seconded by Councilmember Madrigal, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Escutia-Braaton, Kenoyer, Madrigal, Ricci, Wright, Mayor Zwahlen

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST:   
DIANE NAYARES-PEREZ, CMC,  
City Clerk

(SEAL)

APPROVED AS TO FORM:

BY:   
JOSE M. SANCHEZ, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2022-391**

**RESOLUTION APPROVING SPECIFIC PLAN AMENDMENT NO. 13 TO  
THE KIERNAN BUSINESS PARK SPECIFIC PLAN TO CHANGE THE LAND  
USE DESIGNATION OF 12.8 ACRES FROM BUSINESS PARK (BP) TO MIXED  
USES, PROPERTY LOCATED AT 2731 AND 2931 BANGS AVENUE  
(BENCHMARK ENGINEERING)**

WHEREAS, on April 1, 1997, the City Council by Resolution No. 97-159,  
adopted the Kiernan Business Park 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, on November 4, 1997, the City Council by Resolution No. 97-631  
adopted Amendment No. 1 to the Kiernan Business Park Specific Plan to add language to  
allow for changes in utility service providers; and

WHEREAS, on April 7, 1998, the City Council by Resolution No. 98-170  
adopted Amendment No. 2 to the Kiernan Business Park Specific Plan to add language to  
permit indoor theaters in the Regional Commercial Designation within a Planned  
Development Zone; and

WHEREAS, on August 10, 2004, the City Council by Resolution No. 2004-424  
adopted Amendment No. 3 to modify the land use and circulation diagrams and  
development standards for the Kaiser Medical Center site, to revise the planned street  
system in the future business park, and to incorporate design standards into the Specific  
Plan; and

WHEREAS, on September 1, 2009, the City Council by Resolution No. 2009-420  
adopted Amendment No. 4 to re-designate 39 acres located on the east side of Dale Road  
between Kiernan Avenue and Bangs Avenue from Business Park (BP) to Mixed Use

(MU) and Medium-High Density Residential (MHDR), to modify the circulation plans, incorporate MU and MHDR design standards and guidelines, and establish facilities plans for the area bounded by Kiernan Avenue, Dale Road, Bangs Avenue, and American Avenue; and

WHEREAS, on December 15, 2015, the City Council by Resolution No. 2015-499 adopted Amendment No. 5 to amend the storm drain provisions and to clarify and simplify land use and development standard regulations for the Specific Plan; and

WHEREAS, on May 2, 2017, the City Council by Resolution No. 2017-171 adopted Amendment No. 6 to amend the definition of allowable and conditional uses in the Business Park land use designation of the Specific Plan, particularly regarding ancillary retail uses; and

WHEREAS, on May 1, 2018, the City Council by Resolution No. 2018-166 adopted Amendment No. 7 to change the land use designation of 2.8 acres located on Pelandale Avenue east of Chapman Road from Office (O) uses to Regional Commercial (RC) uses; and

WHEREAS, on October 5, 2018, the Director of Community and Economic Development approved Amendment No. 8 to the Specific Plan, a minor administrative amendment as provided by Section IX-B.1.a of the Specific Plan, to allow for development of up to 33 additional dwelling units within the Mixed Use (MU) land use designation; and

WHEREAS, on December 18, 2018, the Director of Community and Economic Development approved Amendment No. 9 to the Specific Plan, a minor administrative amendment as provided by Section IX-B.1.a of the Specific Plan, to amend the

Circulation Plan of the Specific Plan relative to the alignment of Healthcare Way west of Dale Road and the Kaiser Modesto Medical Center; and

WHEREAS, on February 9, 2021 the City Council by Resolution No. 2021-45 approved Amendment No. 10 to the Specific Plan, to change the land use designation of 22.9 acres located on the north side of Healthcare Way west of Dale Road from Business Park (BP) to the new land use designation of Mixed Use 2 (MU2) to allow for Business Park uses or Medium High Density Residential uses to a maximum of 550 dwelling units or a mixture of the two uses; and

WHEREAS, on August 4, 2021 the City Council by Resolution No. 2021-308 approved Amendment No. 11 to the Specific Plan, to change the land use designation of 3.5 acres from Business Park (BP) to Mixed Uses (MU), property located at the northeast corner of Bangs Avenue and Dale Road; and

WHEREAS, on April 12, 2022 the City Council by Resolution No. 2022-19 approved Amendment No. 12 to the Specific Plan, to change the land use designation of 67 acres located north of Pelandale Avenue and east of Dale Road from Business Park (BP) to the new land use designation of Mixed Use 3 (MU3), and to change the designation of Bangs Avenue from four-lane major collector street to two-lane minor collector street in the Circulation Plan of the Specific Plan; and

WHEREAS, Benchmark Engineering has filed an application to amend the Kiernan Business Park Specific Plan to change the land use designation of 11.8 acres located on the north side of Bangs Avenue east of Dale Road from Business Park (BP) to Mixed Uses (MU); and

WHEREAS, the City has added a one-acre property adjacent to the proposed location to provide continuity with the resulting amendment; and

WHEREAS, on April 20, 2022 the proposed Specific Plan Amendment was referred to the Stanislaus and Modesto School Districts, Modesto Irrigation District, Local Agency Formation Commission, County Planning and Community Development, and the Environmental Resources Director, for a 45-day referral period in accordance with Government Code sections 65453 and 65352; and

WHEREAS, the City of Modesto prepared an Initial Study, Environmental Assessment No. EA/C&ED 2022-18, which concludes that no major revisions to the previously-certified Kiernan Business Park Specific Plan Amendment #4 Program EIR (SCH No. 2007062071) are needed as a result of the project, and that, pursuant to Sections 15162 and 15164 of the CEQA Guidelines, no new environmental review is required; and

WHEREAS, on August 1, 2022, at 6:00 p.m. the Planning Commission held a duly noticed public hearing in the Tenth Street Place Chambers located at 1010 Tenth Street, Modesto, California, at which hearing evidence both oral and documentary was received and considered concerning the proposed amendment to the Kiernan Business Park Specific Plan; and

WHEREAS, after said public hearing, the Modesto City Planning Commission by Resolution No. 2022-19, recommended to the City Council approval of an amendment to the Kiernan Business Park Specific Plan to change the land use designation of 12.8 acres located on the north side of Bangs Avenue east of Dale Road from Business Park (BP) to Mixed Uses (MU); and

WHEREAS, said matter was set for a public hearing of the City Council to be held on September 13, 2022, in the Tenth Street Place Chambers located at 1010 Tenth Street, Modesto, California, at which date and time said duly noticed public hearing was held.

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

1. The proposed Amendment No. 13 to the Kiernan Business Park Specific Plan, to change the land use designation of 12.8 acres, located at the north side of Bangs Avenue east of Dale Road, from Business Park (BP) uses to Mixed Uses (MU) would be consistent with the Modesto Urban Area General Plan because the amendment would result in a mix of commercial and offices uses consistent with the General Plan's Business Park designation of the site.
2. The proposed amendments would be in conformance with the Specific Plan's polices and standards because any future development as a result of the amendments would be required to adhere to the development standards and design guidelines of the Specific Plan.
3. The proposed amendment would allow for Mixed Uses that would be compatible with existing commercial, office and service uses that are in near proximity to the amendment area.
4. Future development as a result of the proposed amendment would have negligible visual impact both on-site and on-site with application of the development standards and design guidelines of the Specific Plan, would have less than significant traffic impact than if the area were to develop with Business Park uses, and would be consistent with the adopted Facilities Master Plan and Infrastructure Financing Plan.
5. An Initial Study, Environmental Assessment No. EA/C&ED No. 2022-18, was prepared by the City of Modesto that analyzed the proposed amendment and concluded that no major revisions to the previously-certified Kiernan Business Park Specific Plan Amendment #4 Program EIR (SCH No. 2007062071) are needed as a result of the project, and that, pursuant to Section 15162 and 15164 of the CEQA Guidelines, no new environmental review is required.

BE IT FURTHER RESOLVED by the Council of the City of Modesto that the Kiernan Business Park Specific Plan is hereby amended to change the land use designation of 12.8 acres located on the north side of Bangs Avenue and east of Dale Road from Business Park (BP) to Mixed Uses (MU), as shown on **Exhibit "A" attached** hereto and incorporated herein by reference.

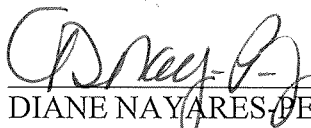
BE IT FURTHER RESOLVED that the property owner and developer shall, at their sole expense, defend, indemnify and hold harmless the City of Modesto, its agents, officers, directors and employees, from and against all claims, actions, damages, losses, or expenses of every type and description, including 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.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 13th day of September, 2022, by Councilmember Wright, who moved its adoption, which motion being duly seconded by Councilmember Escutia-Braaton, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Escutia-Braaton, Kenoyer, Madrigal, Ricci, Wright, Mayor Zwahlen

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST:   
DIANE NAYARES PEREZ, CMC,  
City Clerk

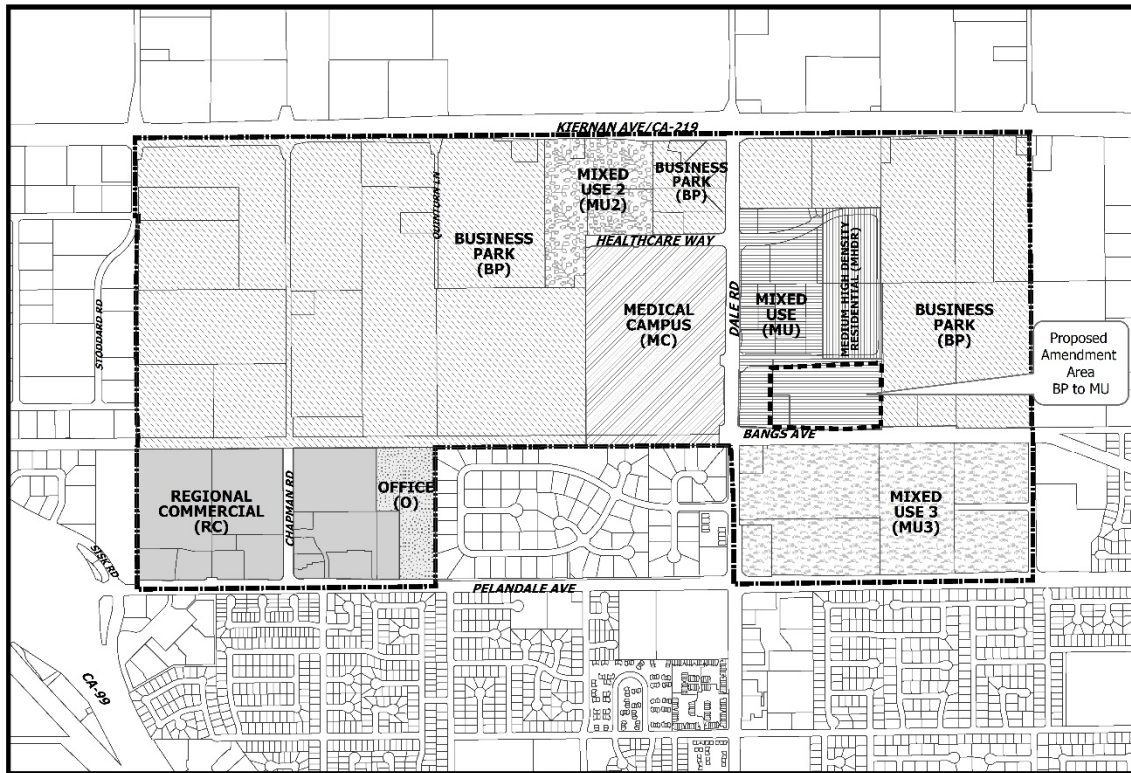
(SEAL)

APPROVED AS TO FORM:

BY:   
JOSE M. SANCHEZ, City Attorney

**Exhibit A**

**Amendment No. 12 to the Kiernan Business Park Specific Plan**



**Kiernan Business Park  
Specific Plan  
Land Use Diagram**  
As proposed, SPA-22-002

- Legend**
- Specific Plan Area Boundary
  - Business Park (BP)
  - Office (O)
  - Regional Commercial (RC)
  - Medical Campus (MC)
  - Med-High Density Residential (MHDR)
  - Mixed Uses (MU)
  - Mixed Uses 2 (MU2)
  - Mixed Uses 3 (MU3)

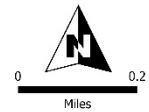


Figure III-1: Land Use Plan Diagram

The Land Use Summary of Kiernan Business Park is summarized below in Table III-1.

<b>Development Area</b>	<b>Approximate Gross Acres</b>	<b>Maximum Density Allowed(sf)<sup>1</sup></b>	<b>Dwelling Unit Max</b>
<b>Business Park Area (BP)</b>			
Phase I	97.0	1,689,380 sf	n/a
Phase II	250.0	4,110,244 sf	n/a
<b>Subtotal</b>	<b>347.0</b>	<b>5,799,624 sf</b>	n/a
<b>Office Area (O)</b>			
Phase I	12.0	171,852 sf	n/a
Phase II	0		n/a
<b>Subtotal</b>	<b>12.0</b>	<b>171,852 sf</b>	n/a
<b>Regional Commercial Area (RC)</b>			
Phase I	60.0	996,315 sf	n/a
Phase II	0		n/a
<b>Subtotal</b>	<b>60.0</b>	<b>996.315 sf</b>	n/a
<b>Medical Campus (MC)</b>			
Phase I	49.0	1,425,000 sf	n/a
Phase II	0		n/a
<b>Subtotal</b>	<b>49.0</b>	<b>1,425,000 sf</b>	n/a
<b>Medium High Density Residential (MHDR) Area</b>			
Phase I	16.0	400,000gsf <sup>2</sup> .	262 units <sup>3</sup>
Phase II	0	0	0
<b>Subtotal</b>	<b>16.0</b>	<b>400,000gsf.</b>	<b>262 units</b>
Table III-1: Kiernan Business Park - Maximum Buildout Land Use Scenario Summary for Phase I (area east of Dale Road) and Phase II (area west of Dale Road)			

<sup>1</sup> Source: City of Modesto Initial Study Environmental Checklist, June 2007 and A.C. Martin Partners Inc., 2006

<sup>2</sup> Gross square footage does not include garage area.

<sup>3</sup> Since senior housing generates only 51% of the trips of conventional multi-family housing, up to 500 dwelling units of senior housing may be allowed in lieu of or in combination with conventional multi-family housing, as long as the equivalent number of dwelling units does not exceed 262 units.

Table III-1 (Continued from Page 3)			
Development Area	Approximate Gross Acres	Maximum Density Allowed(sf) <sup>1</sup>	Dwelling Unit Max
<b>Mixed Use (MU) Area</b>			
Phase I	<u>40.0</u>	<u>400,000</u> gsf	n/a
(Hotel and Hospitality)		170,000 gsf	
(Residential)		113,000 gsf <sup>2</sup>	113
Phase II	0	0	0
<b>Subtotal</b>	<b>40.0</b>	<b>683,000 gsf</b>	<b>113 units</b>
<b>Mixed Use 2 (MU2) Area<sup>3</sup> Phase II</b>			
BP Scenario Maximums	23.0	Included in Business Park Area (BP) Phase II above	n/a
MHDR Scenario Maximums	23.0	550,000 gsf (MHDR)	550 units
<b>Subtotal</b>	<b>23.0</b>	<b>550,000 gsf (if MHDR)</b>	<b>550 units (if MHDR)</b>
<b>Mixed Use 3 (MU3) Area<sup>4</sup> Phase I</b>			
MU Scenario Maximums	67.0	Included in Mixed Use Area (MU) Phase I above	
MHDR Scenario Maximums	67.0	15 du/ac min 16 du/ac max	1012 units (if MHDR)
<b>Subtotal</b>	<b>67.0</b>		<b>1012</b>
<b>Total</b>	<b>614.0</b>		<b>1937<sup>5</sup> units</b>

Table III-1: Kiernan Business Park - Maximum Buildout Land Use Scenario Summary for Phase 1 (area east of Dale Road) and Phase II (area west of Dale Road)

<sup>1</sup> Source: City of Modesto Initial Study Environmental Checklist, June 2007 and A.C. Martin Partners Inc., 2006

<sup>2</sup> Residential GSF in the Mixed Use (MU) Area does not include support square footage for areas such as corridors, lobbies, janitorial spaces, and any common areas such as a TV lounge of business center.

<sup>3</sup> MU2 can develop as either BP or MHDR, or a combination, so maximums show in each scenario are not cumulative and should not be counted as such in subtotals or totals.

<sup>4</sup> MU3 can develop as either MU or MHDR, or a combination, to a minimum density of 15 units per acre and a maximum density of 16 units per acre.

<sup>5</sup> Dwelling Unit Maximum of 1937 if MU2 develops at 550 units and MU3 develops at 1012 units.

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2022-392**

**RESOLUTION REAPPOINTING CRAIG LEWIS TO THE STANCOG MEASURE  
L CITIZENS OVERSIGHT COMMITTEE**

WHEREAS, in November of 2016, Stanislaus County voters approved a county-wide, 25-year, half-cent sales tax increase known as Measure L which went into effect on April 1, 2017, and

WHEREAS, the Stanislaus Council of Governments (StanCOG) has created a Measure L Citizens Oversight Committee, and

WHEREAS, the Measure L Citizens Oversight Committee candidates are to be chosen by the City Council or Board of Supervisors they represent, and

WHEREAS, the Measure L Citizens Oversight Committee member approved by Council will represent the Modesto citizens, and

WHEREAS, on August 2, 2017, by Resolution No. 2017-292, Council appointed Craig Lewis, to the StanCOG Measure L Citizens Oversight Committee for a five-year term.

WHEREAS, Mr. Lewis is eligible to be reappointed for a three-year term and has expressed interest in continuing in this role.

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

1. Craig Lewis is hereby appointed to the StanCOG Measure L Citizens Oversight Committee effective October 1, 2022 for a three-year term, expiring on September 30, 2025, and
2. The City Clerk is hereby directed to transmit a copy of this resolution to the Secretary of the Committee thereof.

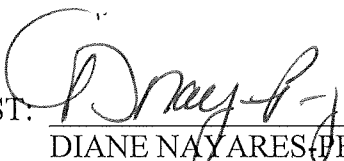
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 27th day of September, 2022, by Vice Mayor Wright, who moved its adoption, which motion being duly seconded by Mayor Zwahlen, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Escutia-Braaton, Kenoyer, Madrigal,  
Wright, Mayor Zwahlen

NOES: Councilmembers: Ricci

ABSENT: Councilmembers: None

ATTEST:

  
\_\_\_\_\_  
DIANE NAYARES PEREZ, CMC,  
City Clerk

(SEAL)

APPROVED AS TO FORM:

BY:

  
\_\_\_\_\_  
JOSE M. SANCHEZ, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2022-393**

**RESOLUTION APPROVING AN OPERATING AGREEMENT, WITH  
OUTFRONT MEDIA LLC, FOR THE INSTALLATION OF A DIGITAL  
FREEWAY BILLBOARD ON THE PROPERTY LOCATED AT 1027 EMERALD  
AVENUE, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE  
TO EXECUTE THE AGREEMENT**

WHEREAS, Modesto Municipal Code Section 10-6.108 (f) (3) allows digital freeway billboards along State Route 99; and

WHEREAS, Modesto Municipal Code Section 10-6.108 (f) (3) (iii) (c) allows for the applicant and the City of Modesto (City) to enter into an operating agreement in conjunction with a conditional use permit for a digital freeway billboard; and

WHEREAS, Outfront Media LLC (Outfront) applied for conditional use permit and operating agreement through Stanislaus County to install one digital freeway billboard on property located at 1027 Emerald Avenue; and

WHEREAS, the project site is in Stanislaus County (County) jurisdiction and the County's standards do not permit digital freeway billboards; and

WHEREAS, in accordance with County's General Plan policies, City of Modesto standards are applied if the site is in the City of Modesto sphere of influence; and

WHEREAS, the project site is in the City of Modesto sphere of influence; and

WHEREAS, the County is responsible for processing the conditional use permit since the project site is in the County's jurisdiction; and

WHEREAS, the County Planning Commission approved the conditional use permit on August 18, 2022; and

WHEREAS, the operating agreement with Outfront is being processed by the City pursuant to Modesto Municipal Code Section 10-6.108 (f) (3) (iii) (c); and

WHEREAS, Outfront Media submitted an operating agreement to address the removal of at least four existing billboards and provisions regarding community messaging.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the operating agreement, in coordination with Stanislaus County, for a digital freeway billboard at 1027 Emerald Avenue, in County jurisdiction is hereby approved as shown on **Exhibit "A" attached** hereto and incorporated herein by reference.

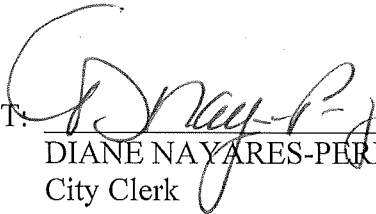
BE IT FURTHER RESOLVED that the City Manager or designee is hereby authorized to execute the operating agreement, in a form approved by the City Attorney.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 27th day of September, 2022, by Councilmember Kenoyer, who moved its adoption, which motion being duly seconded by Councilmember Madrigal, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Escutia-Braaton, Kenoyer, Madrigal, Ricci, Wright, Mayor Zwahlen

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST:   
DIANE NAYARES-PEREZ, CMC,  
City Clerk

(SEAL)

APPROVED AS TO FORM:

BY:   
JOSE M. SANCHEZ, City Attorney

**DIGITAL FREEWAY SIGN OPERATING AGREEMENT BY AND BETWEEN  
CITY OF MODESTO AND OUTFRONT MEDIA LLC**

This Operating Agreement for a Digital Freeway Billboard (hereinafter "Agreement"), dated October xx, 2022 by and between the **City of Modesto** (the "City"), a California municipal corporation and **Outfront Media LLC** ("Outfront Media"), a Delaware corporation.

**RECITALS**

1. **Background.** Modesto Municipal Code section 10-6.108, after all required notices and public hearing, allows for the City to enter into an Operating Agreement to allow for a Digital Freeway Billboard under certain circumstances; including the permanent removal of pre-existing billboards from within the City. Outfront Media has applied for approval to install one (1) monopole Digital Freeway Billboard with two 14' x 48' digital sign faces on the real property leased by Outfront Media from Crown View Corporation, Forrest Aarvig - and located at 1027 Emerald Ave, Modesto CA 95351, (the "Property"). This property is located in Stanislaus County (the "County") jurisdiction but within the City Sphere of Influence. Stanislaus County is relying on City standards for signs on properties in County jurisdiction but located within the City Sphere of Influence.

2. **Applicant.** Outfront Media is an outdoor-advertising company that has extensive experience in successfully installing, operating, and maintaining traditional and digital billboards throughout the United States. Outfront Media has contracted with the owners of the Property for the purpose of installing, operating, and maintaining Outfront Media's Digital Freeway Billboard, and it has the requisite resources and expertise to do so successfully.

3. **Legal Framework.** For the reasons recited herein, the City has determined that the construction and operation of Outfront Media's proposed outdoor advertising display on the Property is a development for which this Agreement is appropriate and is not prohibited by §§ 5412 and 5443.5 of the California Outdoor Advertising Act (Bus. and Prof. Code § 5200 et seq. and Modesto Municipal Code section 10-6.108).

4. **Public Benefit.** City finds that a substantial public benefit will accrue to City by reason of Outfront Media's outdoor advertising display, which will add value to the community by enabling City and County to market City and County projects, programs and other City and County activities for the benefit of the City and County and its businesses and residents. In addition the City finds that an additional substantial public benefit will accrue to the City and County by reason of Outfront Media removing presently existing billboards as a material condition of this Agreement for a Digital Freeway Billboard. In exchange for providing these public benefits, Outfront Media receives assurance that it may proceed with the construction and operation of Outfront Media's outdoor advertising display and the project in accordance with ordinances, resolutions and regulations existing as of the date of this Agreement, subject only to the terms and conditions contained herein and contained in any permits issued pursuant to this project.

NOW, THEREFORE, in consideration of mutual promises, conditions, and covenants hereinafter set forth, the Parties agree as follows:

**AGREEMENT**

1. **Incorporation of Recitals.** The Preamble, the Recitals, and all defined terms set forth in both, are hereby incorporated into this Agreement as if set forth herein in full.

2. **Definitions.** This section defines the terms: "Agreement Year," "Business Day," "Caltrans," "Caltrans Permits," "City and County Permits," "Commencement Date," "Digital Freeway Billboard," "Digital Display Area," "Effective Date," "Include," "Operational," "Obstruction," "Site," "Sign Structure," and "Term." Other terms are defined elsewhere in this Agreement.

- (a) "Agreement Year" means one of the consecutive 12-month periods during the Term. The first Agreement Year begins on the Effective Date.
- (b) "Business Day" means any day the City's main offices located at 1010 10th Street, Modesto, CA 95354 are open to the public.
- (c) "Caltrans" means the California Department of Transportation.
- (d) "Caltrans Permits" means all permits and approvals that Outfront Media must obtain from Caltrans to install, operate, and maintain the Digital Freeway Billboard in accordance with this Agreement.
- (e) "City and County Permits" means all building permits, conditional use permits, zoning amendments, operating agreements, and other permits, entitlements, and agreements that the City and County, acting in its governmental capacity, must issue or approve for Outfront Media to install, operate, and maintain the Digital Freeway Billboard in accordance with this Agreement.
- (f) "Commencement Date" means the date as of which both of the following have occurred: (1) the City and County has finally approved the Plans (defined in Section 6(a)); and, (2) Outfront Media has received all necessary governmental permits and approvals for the Digital Freeway Billboard, including the Caltrans Permits and the City and County Permits.
- (g) "Digital Freeway Billboard" means an off-site outdoor advertising sign, including all above-ground supporting structures, with one or more digital display areas. A Digital Freeway Billboard may be internally or externally illuminated. Digital Freeway Billboards are always considered off-site signs and are regulated as such. Outfront Media will install and operate the Digital Freeway Billboard on the Site in accordance with the criteria set forth in Schedule 1, Exhibit A to this Agreement.
- (h) "Digital Display Area" means the portion of the Digital Freeway Billboard that consists of the digital display areas used for general commercial advertising. The Digital Display Area is more particularly described in Schedule 1, Exhibit B-2.
- (i) "Effective Date" means the date as of which both the City and Outfront Media have signed this Agreement, as indicated by the dates in the signature blocks below.
- (j) "Include" and its variants are not restrictive. For example, "includes" means "includes but not limited to," and "including" means "including but not limited to."
- (k) "Operational" means the Digital Freeway Billboard is capable, legally and functionally, of displaying digital advertising on the Digital Display Area.
- (l) "Obstruction" means any structure, sound wall, communications antennae, tree, or vegetation on City owned or controlled property within 1,000 feet of the Digital Freeway Billboard and obstructs the view of the Digital Display Areas from the viewing public on Highway 99.
- (m) "Site" means the portion of the Property located in the County upon which the Digital Freeway Billboard is installed. The Site is more particularly described in Schedule 1, Exhibit B-1.
- (n) "Sign Structure" means the portion of the Digital Freeway Billboard other than the Digital Display Area, including but not limited to supporting pole(s), display frame and all ancillary equipment and utilities installed on the sign Site. The Sign Structure as improved with Digital Display Area is more particularly described in Schedule 1, Exhibit B-2. If the site currently does not have a Sign Structure, the term "Sign Structure" shall mean all

supporting pole(s), display frame and ancillary equipment and above-ground utilities installed on the Site.

- (o) "Term" means the entire time this Agreement is in effect, as specified in Section 3.

**3. Term of Agreement.**

- (a) *Term.* The "Term" of this Agreement consists of two phases:

- (1) The "Development Phase," which begins on the Effective Date and ends when the Digital Freeway Billboard becomes Operational.
- (2) The "Operations Phase," with regard to the Digital Freeway Billboard begins at the end of the Development Phase and ends when such Digital Freeway Billboard is removed or after a twenty five (25) year period following the conclusion of the Development Phase, whichever occurs first. The Agreement is automatically renewed for an additional 25 year Term unless written notice is given by either party to the other party 60 days prior to expiration of the initial Term expressing the party's intent to terminate this Agreement.

**4. Consideration.** As consideration for the rights and benefits it enjoys under this Agreement, including the contemplated use during the Term, Outfront Media shall do all of the following:

- (a) *Removal of Existing Outfront Media Signs.* At no cost to the City and County, Outfront Media shall remove the "Existing Signs" identified in Schedule 1, attached to this Agreement and incorporated by reference herein according to the schedule set forth in Schedule 1, subject to the following:

- (1) Outfront Media hereby waives any rights it may have to compensation for the Existing Signs under federal, state, or local law, including the Highway Beautification Act of 1965 (23 United States Code section 131) and the Outdoor Advertising Act (California Business and Professions Code section 5200 and following) for removal of the Existing Signs in accordance with this Agreement.
- (2) Outfront Media's commitment to remove the Existing Signs according to the schedule set forth in Schedule 1 is a material provision of this Agreement. Outfront Media is not entitled to replace the Existing Signs once they are removed.

- (b) *Dedicated "Click".* During the Term of this Agreement, to the extent permissible under applicable laws, rules and regulations, Outfront Media shall display advertisements promoting City and County -sponsored events and activities that meet the following criteria: (1) the event or activity must be held on City or County property; (2), the City or County must participate in an official capacity in the planning, preparation or promotion of the event or activity; and (3) the City or County must be an official sponsor (the "City Copy" or "County Copy") on one 8-second digital display spot on the Digital Freeway Billboard after each 8-spot digital loop (the "Display Time") provided that: (i) all proposed City or County Copy is submitted to Outfront Media not less than five (5) business days prior to the date on which the City or County Copy is proposed to be displayed on the Digital Freeway Billboard (the "Copy Submission Deadline"); (ii) all digital artwork is consistent with the quality of material to be posted on the Digital Freeway Billboard; and (iii) City or County, respectively, pays for all digital production costs associated with the City or County Copy. In no event shall City or County be permitted to give, sell, trade, barter or exchange the Display Time to any third party. Such act shall be deemed a material breach of this Agreement and City or County shall automatically forfeit its right to any further Display Time on the Digital Freeway Billboard. City or County, respectively, represents and warrants that all copy, content and materials supplied by City or County to Outfront Media for display under this Agreement (i) are owned or duly licensed, respectively, by City or County and do not infringe or misappropriate the rights of any

other person or entity, (ii) comply with all applicable federal, state, and local laws, rules and regulations and any industry codes or rules by which City or County and/or Outfront Media may be bound and do not contain any obscene, libelous, slanderous or otherwise defamatory materials or refer in an offensive manner to the gender, race or ethnicity of any individual or group; (iii) are accurate and that all claims contained therein have been substantiated; and (iv) do not infringe upon any copyright, trademark or other intellectual property or privacy right of any third party. The advertisement to be shown during this “click” is separate from the amber alert and emergency public service notifications required by 6(i) of this agreement.

The City of Modesto agree to share 50% of the public sponsored events and activities advertisements with Stanislaus County. The sharing of the public advertisement shall be coordinated and agreed by both agencies. With regard to the foregoing sentence, the County is hereby made a third party beneficiary to this agreement.

## **5. Use of Site.**

(a) *Exclusive Uses.* Except as otherwise provided in Section 6(i), Outfront Media has the exclusive right to display outdoor advertising on the Site, in digital formats. In addition, the City shall not authorize any off-site outdoor advertising on any City-owned or City-controlled property if the outdoor advertising would be within 1,000 feet of the Digital Freeway Billboard. Outfront Media’s exclusive right to conduct outdoor advertising on the Site includes the following:

- (1) Installing, erecting, maintaining, operating, improving, supplementing, posting, painting, illuminating, repairing, repositioning, adding, changing and maintaining equipment required to maintain communications with the Digital Freeway Billboard repositioning (with the City’s consent) during the term of this Agreement.
- (2) Removing the Digital Display Area and all associated equipment on or from the site when this Agreement terminates, as provided in Section 6(m).
- (3) Licensing the use of the Digital Freeway Billboard, or any portion of it, for any lawful purpose related to outdoor advertising.
- (4) All rights to operate the sign faces as Digital Display Areas.

(b) *Unobstructed Use.*

- (1) The City shall not allow the following (an “Obstruction”):
  - (A) On any City-owned or City-controlled real property within 1,000 feet of the Digital Freeway Billboard any structure, sound wall, communications antennae, tree, or vegetation that obstructs the view of the Digital Display Areas from the viewing public on Highway 99.
- (2) If Outfront Media notifies the City in writing that an Obstruction exists, and if the City authorized or actively caused the Obstruction, then the City shall remove or remedy the Obstruction at its own cost within 30 days after receiving the notice. If the City fails to remove the Obstruction within 30 days after receiving the notice, then Outfront Media may remove the Obstruction at the City’s expense after coordinating with the City’s Public Works Department, which coordination shall include, at a minimum, review and approval of Outfront Media’s plans to remove the Obstruction prior to Outfront Media commencing work.
- (3) If Outfront Media notifies the City in writing that an Obstruction exists, and if the City did not authorize or actively cause the Obstruction, then the City may remove or remedy the Obstruction at its own cost within 30 days after receiving the notice.

If the City does not remove or remedy the Obstruction within the 30 days, then, at no cost to the City, and after coordinating with the City's Public Works Department, which coordination shall include, at a minimum, review and approval of Outfront Media's plans to remove the Obstruction prior to Outfront Media commencing work.

- (4) The City is not obligated to remove or seek removal of visual obstructions on private property. Furthermore, this Agreement does not, and cannot authorize Outfront Media to remove visual obstructions from private property.
- (5) Outfront Media's exercise of its rights under this Section 5(b) are in addition to any other remedies it may have under this Agreement.

## **6. Installation and Operation of a Digital Freeway Billboard.**

Outfront Media shall install and operate the Digital Display Area on the Sign Structure in accordance with this Section 6 and consistent with Section 5, all at no cost to the City and County.

- (a) *Plans and Specifications.* At no cost to the City and County, Outfront Media shall prepare complete plans and specifications for the Digital Freeway Billboard, working closely with the City and County to develop plans and specifications that are mutually acceptable (the "Plans"). Outfront Media shall submit the Plans to the City and County for final approval, which the City and County shall not unreasonably withhold.
- (b) *Caltrans Permits.* As soon as practicable after the Effective Date, Outfront Media shall apply to Caltrans for all Caltrans Permits, and the City and County shall cooperate with Outfront Media in that effort, including the completion of any Caltrans forms. All Caltrans Permits are to be obtained and secured for Outfront Media's sole benefit and are to be issued in Outfront Media's name. Outfront Media shall perform all obligations under the Caltrans Permits at no cost to the City and County.
- (c) *City and County Permits.* The City and County shall diligently process Outfront Media's applications for all City and County Permits. This Agreement does not commit the City and County in advance to approve the City and County Permits; and this Agreement does not constrain the City's and County's discretion, acting as a government, with respect to the City and County Permits specifically or to the Digital Freeway Billboard generally.
- (d) *Installation.* Outfront Media shall begin installing the Digital Display Area as soon as practicable after the Commencement Date and shall diligently pursue installation to completion without unnecessary interruption. Outfront Media will be excused, however, for any delays in beginning or completing installation that are caused by a Force Majeure Event, as defined in Section 9(d)(1). Outfront Media shall use reasonable diligence to avoid such delays and to resume work as promptly as possible after such a delay.
- (e) *Ownership.* Outfront Media will be and shall remain the owner of the Digital Freeway Billboard and all permits and authorizations that relate to it, including but not limited to the City and County Permits and the Caltrans Permits.
- (f) *Maintenance.* At no cost to the City and County, Outfront Media shall maintain the Sign Structure and shall maintain and repair the Digital Freeway Billboard in accordance with the standards of the outdoor-advertising industry. Outfront Media's maintenance obligation under this Section 6(f) includes the obligation to remove any graffiti from the Sign Structure and the Digital Freeway Billboard within three (3) business days of being notified of the graffiti by the City and/or County. The City and County are not obligated to maintain the Sign Structure or to maintain or repair the Digital Freeway Billboard.

- (g) *Damage or Destruction.* This Agreement will continue in full effect if any of the Digital Freeway Billboard is damaged and such damage amounts to less than material damage, as defined in Section 6(h) below. Outfront Media shall promptly repair the Digital Freeway Billboard, and Outfront Media shall promptly apply for, and diligently pursue the issuance of, any permits or approvals it needs to repair or replace the Digital Freeway Billboard. Within 30 days after obtaining the City and/or County Permits, all other necessary permits and approvals, and all parts and components, Outfront Media shall begin work to repair or replace the Digital Freeway Billboard. Outfront Media shall complete the work within 180 days after the work begins. If Outfront Media elects, under this Section 6(g), not to repair or replace the Digital Freeway Billboard then Outfront Media shall notify the City and County in writing of its election and shall remove the Digital Freeway Billboard and restore the Site in accordance with Section 6(m).
- (h) *Utilities.* At no cost to the City and County, Outfront Media shall provide and pay for all utility connections, utility equipment, and utility service required to install, operate, maintain, repair, improve, or reposition the Digital Freeway Billboard. In the event electrical power becomes unavailable, for whatever reason, Outfront Media may remove the Digital Display Area and operate its Sign Structure with traditional faces.
- (i) *Amber Alerts and Public-Service Messages.* During all periods when Digital Display Areas are Operational on the Digital Freeway Billboard, Outfront Media shall make the Digital Display Area available to the appropriate governmental agencies for the purpose of displaying “Amber Alert” messages in accordance with the Amber Alert Guidelines set forth in Schedule 1, Exhibit C to this Agreement. In addition, Outfront Media shall allow the Digital Display Area to be available to the City and County, and to other government agencies without cost, on a space-available basis determined by Outfront Media, for the purpose of displaying emergency-disaster communications. The City’s and County’s messages must meet Outfront Media’s graphics-arts standards so that the messages are “camera ready,” at no cost to Outfront Media. All copy will be subject to Outfront Media’s standard advertising copy rejection and removal policies which allow Outfront Media the right in Outfront Media’s sole discretion to approve or disapprove a copy and remove a copy once posted or displayed.
- (j) *Future technologies.* The technology currently being deployed for the Digital Freeway Billboard is LED (light emitting diode), but there may be alternate, preferred or superior technology available in the future. Outfront Media is authorized to change the Digital Freeway Billboard to any other technology that operates under the maximum brightness standards set forth in Section 6(k) of this Agreement. The City and County shall expedite any required approvals for technology that is superior in energy efficiency over previous generations or types.
- (k) *Illumination Standards.* Digital Freeway Billboard illumination is expressly permitted when in compliance with all applicable rules and regulations (see Section 6(n) below) and when operated within these standards, Digital Freeway Billboards:
- (1) shall not operate at brightness levels of more than 0.3 foot candles above ambient light, as measured using a foot candle meter at a pre-set distance.
  - (2) Distance to measure the foot candles impact shall be measured from a distance of 250 ft. for a sign with a nominal face size of 14’ x 48’.
  - (3) Each Digital Display Area must have a light sensing device that will adjust the brightness as ambient light conditions change.
- (l) *Removal of Digital Freeway Sign.* When the Term ends, whether it expires as scheduled or is terminated early, Outfront Media shall promptly apply for, and diligently pursue the issuance of, at no cost to the City and County, any permits or approvals it needs to remove the Digital Freeway Billboard, including the Digital Display Area and all above-

ground sign structures and supports. Within 120 days after obtaining the necessary permits and approvals, Outfront Media shall remove the Digital Freeway Billboard and all above-ground sign structures and supports and restore the site to the pre-Agreement condition, all at no cost to the City and County. Outfront Media shall not be required to remove the below-grade portions of the Sign Structure. Following termination of this Agreement but prior to removal of the Digital Freeway Billboard, Outfront Media shall not display digital advertising on the Digital Display Area.

- (n) *Compliance with Laws; Waiver of Compensation.* During the Term and while removing the Digital Freeway Billboard after the Term in accordance with Section 6(m), Outfront Media shall do the following at no cost to the City and County: comply with all valid and applicable statutes, ordinances, regulations, rules, and orders that concern the Digital Freeway Billboard and are enacted or issued by any federal, state, or local governmental entity with jurisdiction over the Digital Freeway Billboard (including the City and County) whether enacted or issued before, on, or after the Effective Date including but not limited to sections 5403, 5402, 5405, 5408 and 5408.1 of the California Outdoor Advertising Act. Notwithstanding the foregoing, nothing herein shall be deemed to negate, void, or diminish (i) any claim Outfront Media may have for just compensation as a result of any governmental action that results in the taking of its property or (ii) the right of Outfront Media to avail itself of all remedies available to Outfront Media under state or federal law to maintain its Digital Freeway Billboard.

## **7. Early Termination.**

- (a) *City's Termination Rights.* Without prejudice to its other remedies at law or in equity, the City may terminate this Agreement, at any time and in its sole discretion, effective 30 days after the City gives Outfront Media written notice of termination, if any of the following circumstances occurs:
- (1) Outfront Media breaches its obligation to perform in accordance with any material provision of this Agreement and: (A) does not cure the breach within 30 days after the City serves it with a written notice of breach or, if the breach cannot reasonably be cured within 30 days; (B), does not begin work on a cure within 30 days after the City serves it with a written notice of breach and diligently pursue the cure to completion within ninety (90) days after work begins. The parties can agree to extend the time period to cure the breach by mutual written agreement. The express designation in this Agreement of a provision as "material" does not imply that other provisions are not material.
  - (2) Outfront Media initiates legal challenge to the validity of this Agreement or its authorizing ordinance provided that this subsection shall not prevent Outfront Media from enforcing this Agreement and the parties' obligations hereunder.
- (b) *Outfront Media's Termination Rights.* Without prejudice to its other remedies at law or in equity, including the right to seek just compensation under the laws of eminent domain as described in Section 9, Outfront Media may terminate this Agreement, at any time and in its sole discretion, effective 30 days after Outfront Media gives the City written notice of termination, if any of the following circumstances occurs:
- (1) The view of the Digital Display Area from the adjacent portion of Highway 99 is obstructed by an Obstruction on City-owned or City-controlled real property, and Outfront Media did not cause the Obstruction and the City has failed to adhere to its obligations under Section 5(b) following proper notice by Outfront Media. Materially obstructed shall mean at least one-half of the displayed area is obstructed.
  - (2) Outfront Media cannot safely use the Site to install, operate, maintain, repair, or improve the Digital Freeway Billboard because of a non-remediable or costly condition, and Outfront Media did not cause the condition.

- (3) There is a material diversion of traffic from, or a material reduction or change in the directional flow of traffic on, the portion of Highway 99 adjacent to the Site, and the diversion or disruption continues uninterrupted for at least 30 consecutive days
  - (4) Outfront Media cannot obtain or maintain any governmental permits, licenses or approvals required to install, operate, maintain, repair, or improve the Digital Freeway Billboard, including but not limited to the Caltrans Permits and/or the City and County Permits.
  - (5) Use of the Digital Freeway Billboard for its intended purpose is prevented or limited by law, or Outfront Media is required by any court or other governmental entity, for reasons other than eminent domain, to remove the Digital Freeway Billboard from the Site.
  - (6) The Digital Freeway Billboard is materially damaged or destroyed and Outfront Media elects not to repair or replace the Digital Display Area. Materially damaged or destroyed shall mean at least one-half of the Digital Display Area is damaged or destroyed such that at least one-half of it is fully inoperable.
- (c) *City's and Outfront Media's Additional Termination Rights.* Without prejudice to their other remedies at law or in equity, either party may terminate this Agreement if the other party (and/or, for Outfront Media, its parent company).
- (1) Has an order for relief entered with respect to it, commences a voluntary case, or has an involuntary case filed against it under any applicable bankruptcy, insolvency, or other similar law then in effect, and the order or case is not stayed, withdrawn, or settled within 60 days after it is entered, commenced, or filed (11 U.S.C. § 365(e)(2)(A), as amended, or any successor statute); or
  - (2) Files for reorganization, becomes insolvent, or has a receiver or other officer with similar powers appointed for its affairs in any court with jurisdiction, whether or not with its consent (unless dismissed, bonded, or discharged within 60 days after appointment).

## **8. Indemnification.**

- (a) *Definitions.* The following definitions apply to this Section 8:
- (1) "Person" is to be interpreted broadly. It includes not just third persons but also Outfront Media and Outfront Media's directors, officers, employees, contractors, and agents; and the City and County and the City's and County's elected officials, officers, employees, contractors, and agents.
  - (2) "Liabilities" means all liabilities, claims, demands, damages, and costs (including reasonable attorneys' fees and litigation costs through final resolution on appeal) that arise directly or indirectly from Outfront Media's possession or use of the Site.
  - (3) "Occurrence" means: (A) the death of, or injury to, any Person; and (B) damage to, or destruction of, any real property, personal property.
- (b) *General Indemnity.* Outfront Media shall indemnify, defend (with attorneys reasonably acceptable to the City and County), protect, and hold the City and County harmless from and against all Liabilities that arise directly or indirectly from Outfront Media's possession or use of the Site. Outfront Media is obligated under this Section 8(b) even if the City and County or the City's and County's elected officials, officers, employees, contractors, or agents reviewed, accepted, or approved the work, materials, or activities from which the Liabilities arise. But Outfront Media is not obligated under this Section 8(b) to the extent the Liabilities are caused by the active negligence or willful misconduct of the City and

County or the City's and County's elected officials, officers, employees, contractors, or agents. Outfront Media's obligation under this Section 8 (b) includes Liabilities arising from any of the following:

- (1) Any Occurrence on the Site, but only to the extent caused by Outfront Media's acts or omissions.
  - (2) Any Occurrence that is in any way connected with any of Outfront Media's personal property on the Site.
  - (3) Any Occurrence caused or allegedly caused by (A) any condition of the Site created by Outfront Media or by any Person on the Site with Outfront Media's permission; or (B) some act or omission on the Site by Outfront Media or by any Person on the Site with Outfront Media's permission.
  - (4) Any Occurrence caused by, or related in any way to, work or activities performed on the Site or materials furnished to the Site at the request of Outfront Media or any Person or entity acting for Outfront Media or with Outfront Media's permission.
  - (5) Any Occurrence that is caused by, or related in any way to the content displayed on the Digital Display Area.
  - (6) Outfront Media's failure to perform any material provision of this Agreement, to comply with any requirement of law applicable to Outfront Media in connection with the Digital Freeway Billboard, or to fulfill any requirement imposed by any governmental entity (including the City and County when acting as a government) on Outfront Media in connection with the Digital Freeway Billboard or Outfront Media's use of the Site.
- (c) *Legal Challenges.* Outfront Media shall indemnify, defend with attorneys selected by the City and County, protect, and hold harmless the City and County and the City's and County's elected officials, officers, and employees ("Agents") in any litigation to attack, set aside, void or annul an approval by the City and County or its Agents concerning the Digital Freeway Billboard (collectively, a "Claim" including litigation based on the California Environmental Quality Act) brought to challenge the validity of this Agreement, the validity of the City and County Permits or the Caltrans Permits, or the validity of the City and County ordinances that authorize the installation and Operation of the Digital Freeway Billboard on the site. Outfront Media's obligation to indemnify under this Section 7(c) includes liability for attorneys' fees awarded to a party who successfully challenges the validity of this Agreement, of the City and County Permits, or the Caltrans Permits, or of any authorizing ordinance. If such a Claim is brought, the parties shall promptly notify the other party of such Claim and each party shall cooperate with the efforts of the Outfront Media to defend such Claim. Unless required by law, the City and County will not voluntarily assist the opposing party in any such Claim or take any position adverse to Outfront Media in connection with such Claim. Nothing in this paragraph shall obligate the City or County to defend any Claim and the City and County shall not be required to pay or perform any settlement arising from any such Claim, unless the settlement is approved in writing by the City and County.
- (d) *Survival.* Outfront Media's obligations under this Section 8 will survive this Agreement.

## **9. Miscellaneous.**

- (a) *Assignments and SubAgreements.* A party may not assign or otherwise transfer this Agreement or any interest in it, and this Agreement is not assignable by operation of law, without the other party's prior written consent, which the other party shall not withhold, delay, or condition unreasonably. This Agreement remains in effect, and an assignment or transfer of this Agreement does not occur, for purposes of this Section 9(a), if Outfront

Media merges with another company, reorganizes its stock, or undergoes a similar corporate restructuring, or if Outfront Media sells any of its assets or stock. An assignment or transfer made contrary to this Section 9(a) is void.

- (b) *Successors and Assigns.* This Agreement binds and inures to the benefit of the successors and permitted assigns of the parties. This Section 9(b) does not constitute the City's consent to any assignment of this Agreement or any interest in the Agreement.
- (c) *Notices.* Any notice or other communication under this Agreement must be in writing and will be considered properly given and effective only when mailed or delivered in the manner provided by this Section 9(c) to the persons identified below. A mailed notice or other communication will be effective or will be considered to have been given on the third day after it is deposited in the United States Mail (certified mail and return receipt requested), addressed as set forth below, with postage prepaid. A notice or other communication sent in any other manner will be effective or will be considered properly given when actually delivered. A party may change its address for these purposes by giving written notice of the change to the other party in the manner provided in this Section 9(c).

*If to the City:*

City of Modesto  
Community and Economic Development  
Department/Planning Division  
1010 10th Street, Suite 3300  
Modesto, CA 95354  
Attention: \_\_\_\_\_

*If to Outfront Media:*

Outfront Media LLC  
1731 Workman St. S,  
Los Angeles, CA 90031  
Attention: VP Real Estate

With a copy to:

Outfront Media LLC  
405 Lexington Avenue  
New York, NY 10174  
Attn: General Counsel

- (d) *Force Majeure.*
  - (1) "Force Majeure Event" means a cause of delay that is not the fault of the party who is required to perform under this Agreement and is beyond that party's reasonable control, including the elements (such as floods, earthquakes, windstorms, and unusually severe weather), fire, energy shortages or rationing, riots, acts of terrorism, war or war-defense conditions, acts of any public enemy, epidemics, the actions or inactions of any governmental entity (excluding the City) or that entity's agents, litigation, labor shortages (including shortages caused by strikes or walkouts), and materials shortages.
  - (2) Except as otherwise expressly provided in this Agreement, if the performance of any act required by this Agreement to be performed by the City or Outfront Media is prevented or delayed because of a Force Majeure Event, then the time for performance will be extended for a period equivalent to the period of delay, and performance of the act during the period of delay will be excused.
- (e) *Waiver of Breach.* A party's failure to insist on strict performance of this Agreement or to exercise any right or remedy upon the other party's breach of this Agreement will not constitute a waiver of the performance, right, or remedy. A party's waiver of the other party's breach of any provision in this Agreement will not constitute a continuing waiver or a waiver of any subsequent breach of the same or any other provision. A waiver is binding only if set forth in writing and signed by the waiving party.

- (f) *Relationship of the Parties.* This Agreement does not create any relationship or association between the City and Outfront Media. For example, and without limiting the previous sentence, this Agreement does not create between the City and Outfront Media the relationship of principal and agent, nor does it create a partnership or joint venture.
- (g) *Attorneys' Fees.* The party prevailing in any litigation concerning this Agreement, the Site, or any improvements to the Site (including the Digital Freeway Billboard) will be entitled to an award by the court of reasonable attorneys' fees and litigation costs through final resolution on appeal in addition to any other relief that may be granted in the litigation. If the City is the prevailing party, then this Section 9(g) will apply whether the City is represented in the litigation by the Office of the City Attorney or by outside counsel.
- (h) *Severability.* If a court with jurisdiction holds any nonmaterial provision of this Agreement to be invalid, void, or unenforceable, then the remaining provisions will remain in full force.
- (i) *Counterparts.* The parties may execute this Agreement in counterparts, each of which will be considered an original, but all of which will constitute the same Agreement.
- (j) *Further Assurances.* Each party shall execute all additional documents or instruments and take all necessary action that either party reasonably considers necessary to carry out the proper purposes of this Agreement.
- (k) *Time of Essence.* Time is of the essence of this Agreement.
- (l) *Interpretation.* This Agreement is to be interpreted and applied in accordance with California law without regard to conflict-of-laws principles, except that the rule of interpretation in California Civil Code section 1654 will not apply. Schedule 1 and all Exhibits thereto are part of this Agreement.
- (m) *Integration and Modification.* This Agreement sets forth the parties' entire understanding regarding the matters addressed. It supersedes all prior or contemporaneous agreements, representations, and negotiations (written, oral, express, or implied) and may be modified only by another written agreement signed by both parties.

*(Signature Page Follows)*

**City of Modesto**

**Outfront Media LLC**

By: \_\_\_\_\_  
Joe Lopez  
City Manager  
Dated: \_\_\_\_\_, 2022

By: \_\_\_\_\_  
Collin Smith  
Regional Vice President, Real Estate  
Dated: \_\_\_\_\_, 2022

Approved as to Form  
Modesto City Attorney

By: \_\_\_\_\_  
Jose Sanchez  
City Attorney

**Agreement for Digital Freeway Sign  
City of Modesto and Outfront Media**

**Schedule 1  
Existing Signs to be Removed**

<b>New Digital Freeway Billboard</b>	<b>Existing Billboards</b>
<p><b>Property:</b> Address: 1027 Emerald Ave, Modesto CA 95351 APN: 029-012-073</p> <p><b>Site:</b> the 20' x 50' area on the Property as more particularly described on Exhibit B-1 attached hereto and incorporated herein.</p>	<p><b>Outfront Media shall obtain the necessary permits to remove these Existing Signs <i>before</i> the Commencement Date for the new Digital Freeway Billboard and will actually complete removal of the Existing Signs before commencing operation of the new Digital Freeway Billboard. The Existing Signs will be removed to two feet below grade.</b></p> <p><b>Locations:</b></p> <p>APN: 029-012-073 in the (sphere of influence) City of Modesto, County of Stanislaus, State of California (Double Freeway Bulletin)</p> <p>APN: 102-016-001 in the City of Modesto, County of Stanislaus, State of California (Double Poster).</p> <p>APN: 102-016-001 in the City of Modesto, County of Stanislaus, State of California (2<sup>nd</sup> unit Double Poster).</p> <p>APN: 038-003-005 in the (sphere of influence) City of Modesto, County of Stanislaus, State of California (Single Poster).</p> <p>APN: 103-011-003 In the City of Modesto, County of Stanislaus, State of California (Single Poster)</p> <p>APN: 105-041-019 in the City of Modesto, Sounty of Stanislaus, State of California (Single Poster)</p>

**Agreement for Digital Freeway Billboard  
City of Modesto and Outfront Media  
Schedule 1 - Exhibit A**

**Digital Freeway Billboard Operational Requirements**

- a. Operational Limitations. Digital Freeway Billboard shall display static messages only, and shall not have animation, movement, or the appearance or optical illusion of movement in or on any part of the Sign Structure, design, or pictorial segment of the sign. Each static message shall not include flashing, scintillating lighting or varying light intensity.**
- b. Minimum display time. Each message on the sign must be displayed for a minimum of eight (8) seconds.**
- c. Each display must have a light sensing device that will adjust the brightness as ambient light conditions change.**
- d. The Digital Freeway Billboard shall be operated with systems and monitoring in place to either turn the display off or show a “full black” image on the display in the event of a malfunction that affects at least fifty percent of the display area.**
- e. The Digital Freeway Billboard shall not be deemed prohibited under any Sections of the Municipal Code of the City of Modesto**

Agreement for Digital Freeway Billboard  
 City of Modesto and Outfront Media

Schedule 1 - Exhibit B-1

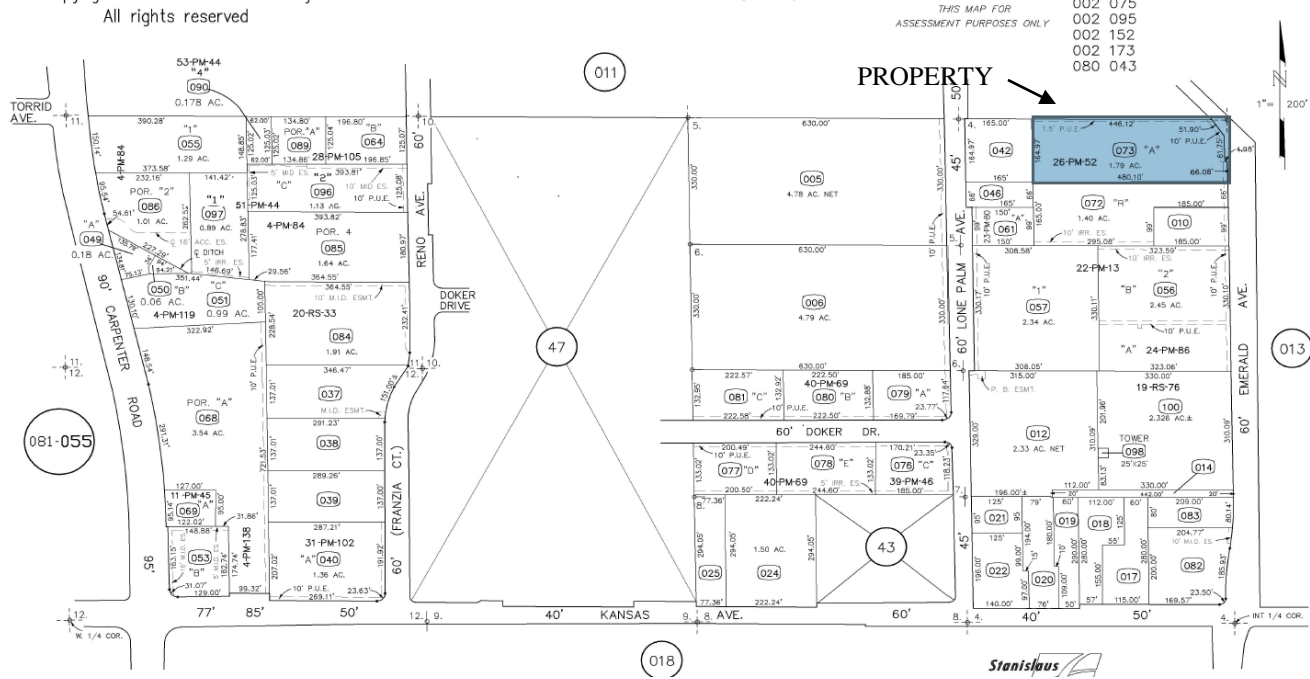
Site Description

1027 N EMERALD AVE, MODESTO, CA 95351-1591

POR. NW 1/4 SECTION 30 T.3S. R.9E. M.D.B.&M.  
 MAZE COLONY LOTS 4-8,11,12 (01M83)

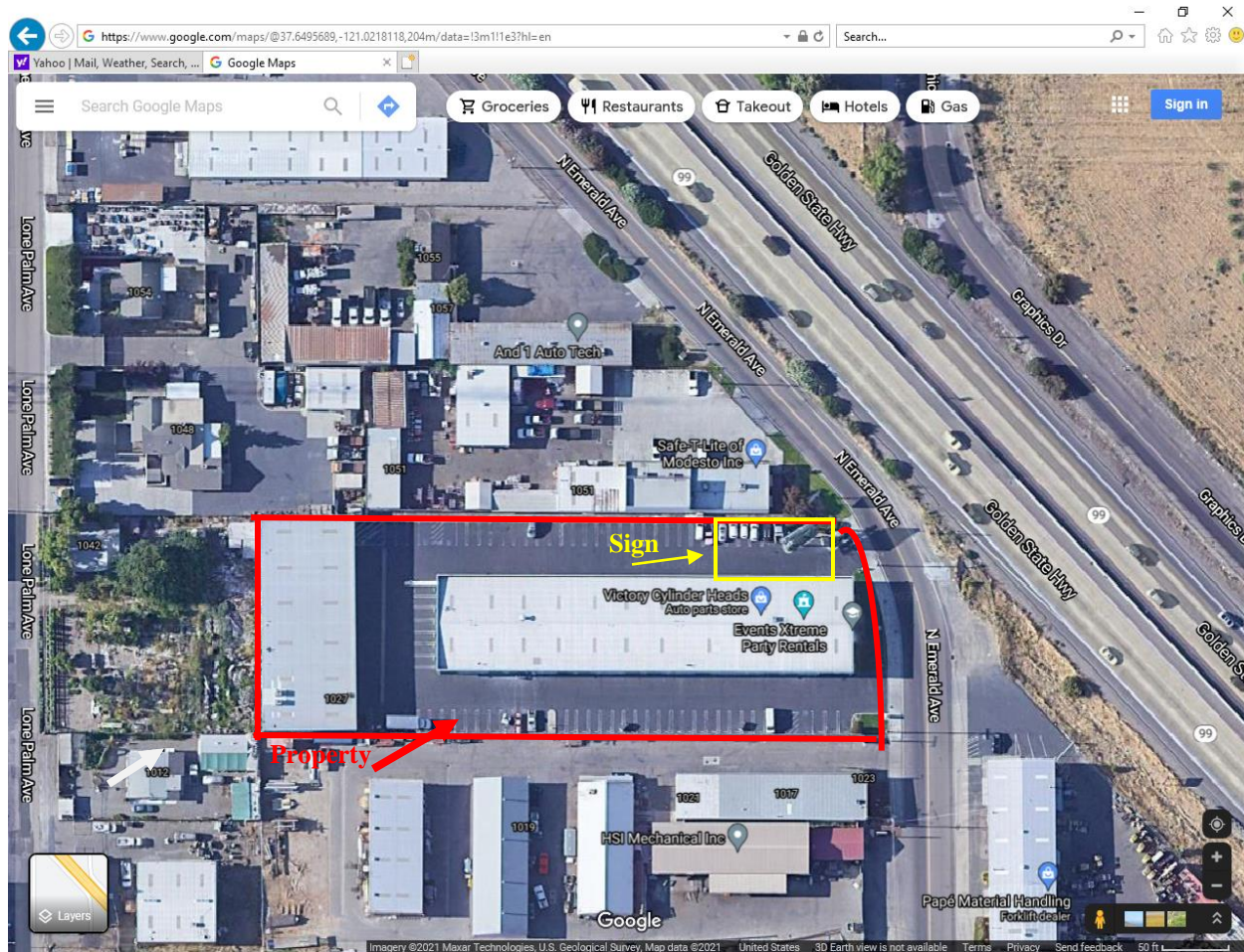
Copyright 2001 Stanislaus County  
 All rights reserved

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Schedule 1 - Exhibit B-1  
 Site Description  
 Continued Below

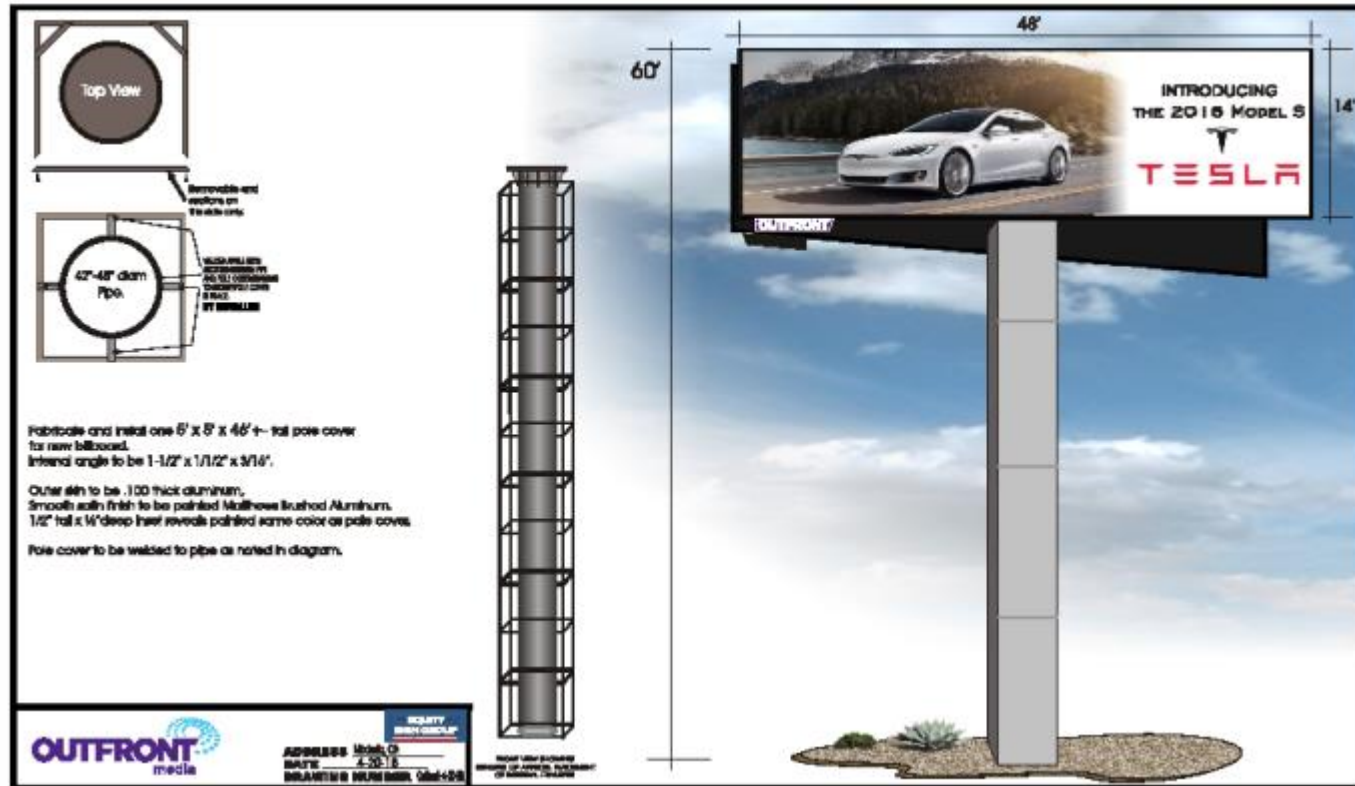
# Agreement for Digital Freeway Billboard City of Modesto and Outfront Media



Agreement for Digital Freeway Billboard  
City of Modesto and Outfront Media

Schedule 1 - Exhibit B-2

Description of Digital Display Area



**Exhibit C**

**Amber Alert Guidelines**

**AMBER alerts are issued by the National Center for Missing and Exploited Children in Washington, DC. For those alerts, Outfront Media and the outdoor advertising industry adhere to these guidelines:**

**Digital Freeway Billboard advertising will be completely interrupted upon receipt of an AMBER Alert within the affected geographical boundary.**

**The appropriate AMBER Alert will run uninterrupted for a minimum of one hour preempting all other advertising.**

**Thereafter, during the two hours immediately following the aforementioned one-hour display of the AMBER Alert, the same alert will be displayed in rotation along with other paid advertisers unless cancelled earlier. After the initial 3 hour display period, any additional posting of the alert shall be based on the situation and availability.**

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2022-394**

**RESOLUTION AUTHORIZING SUBMITTAL OF GRANT APPLICATIONS TO  
SEEK GRANT FUNDING FOR HIGHWAY SAFETY IMPROVEMENT  
PROGRAM (HSIP) FUNDS**

WHEREAS, the Highway Safety Improvement Program (HSIP) is one of the core federal-aid programs in the new federal surface transportation act, Fixing America's Surface Transportation Act (FAST), which was signed into law on December 4, 2015; and

WHEREAS, the purpose of the HSIP program is to achieve a significant reduction in traffic fatalities and serious injuries on all public roads, including non-State-owned public roads and roads on tribal land; and

WHEREAS, Caltrans Division of Local Assistance typically announces a call for HSIP project applications in the Spring every one to two years; and

WHEREAS, the total available funds vary with each funding cycle; and

WHEREAS, applications are typically due in September of each year that the call for applications is made; and

WHEREAS, for the last few cycles, there have been two funding categories for HSIP: Benefit Cost Ratio (BCR) and Funding Set-Asides (SA); and

WHEREAS, there are four set-aside categories: Guard Rail Upgrades, Pedestrian Crossing Enhancements, Installing Edgelines, and Set-aside for Tribes; and

WHEREAS, there is a maximum of one application and funding request for each set-aside category of between \$250,000 and \$1 million per local agency; and

WHEREAS, there is no maximum for the number of applications that can be submitted per agency for the BCR category however, there is a maximum award amount of \$10 million per agency; and

WHEREAS, typically the maximum federal reimbursement ratio for an HSIP grant is 90%; and

WHEREAS, a project may be eligible for 100% HSIP reimbursement if all components of the project are eligible for 100% reimbursement per Section 4.2 of the Local Roadway Safety Manual (LRSM).

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby authorizes submittal of grant applications to seek grant funding for Highway Safety Improvement Program (HSIP) funds.

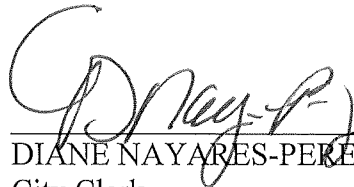
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 27th day of September, 2022, by Councilmember Kenoyer, who moved its adoption, which motion being duly seconded by Councilmember Madrigal, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Escutia-Braaton, Kenoyer, Madrigal, Ricci, Wright, Mayor Zwahlen

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST:

  
\_\_\_\_\_  
DIANE NAYARES-PEREZ, CMC,  
City Clerk

(SEAL)

APPROVED AS TO FORM:

BY:

  
\_\_\_\_\_  
JOSE M. SANCHEZ, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2022-395**

**RESOLUTION APPROVING AN ON-CALL RENTAL SERVICES  
AGREEMENT WITH N & S TRACTOR, TURLOCK, CALIFORNIA, FOR ONE-  
YEAR WITH A ONE-YEAR EXTENSION OPTION, FOR AN ANNUAL  
ESTIMATED AMOUNT OF \$75,000 AND A TOTAL AMOUNT NOT TO  
EXCEED \$150,000 OVER TWO YEARS; AND AUTHORIZING THE CITY  
MANAGER OR HIS DESIGNEE TO EXECUTE THE AGREEMENT**

WHEREAS, the City of Modesto Compost Facility's operation is permitted by three regulatory agencies<sup>1</sup>; and

WHEREAS, the current windrow turner unit has been out of service due to the age of the equipment and rental of this equipment was required to comply with the permit requirements; and

WHEREAS, on November 2, 2021, under Resolution 2021-430, Council approved the purchase of a John Deere Tractor with Deere & Company, Cary, NC, by utilizing the competitive bidding process from Sourcewell (formerly National Joint Powers Alliance) for a total amount not to exceed \$271,425 and a sole source purchase with Evergreen Irrigation Inc., Stayton, OR, for a Windrow Turner for Public Works Department for a total amount not to exceed \$374,651; and

WHEREAS, the temporary rental cost for a windrow turner was estimated at approximately \$10,000 per month; and

WHEREAS, the City took possession of the windrow turner and tractor rental in April 2022, however, there was an unexpected delay with placing the new City-owned equipment in service largely due to the calibration of these two pieces of equipment; and

---

<sup>1</sup> CalRecycle, Central Valley Regional Water Quality Control Board and San Joaquin Valley Air Pollution Control District

WHEREAS, the windrow turner and tractor are very specialized equipment which is only available for rental at agricultural equipment rental companies such as N&S Tractor; and

WHEREAS, City staff recommends entering into an on-call service agreement to ensure equipment availability due to the need to satisfy the regulatory requirements and to avoid a lapse in service; and

WHEREAS, proposals were based on an evaluation criterion on technical proposal, mandatory elements, expertise and experience, audit approach, and cost; 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 follow the formal bid procedures, however; MMC 8-3.204(b) provides that a purchase may be exempted from the City's formal bidding requirement where the Purchasing Agency's requirements can be met solely by a single article or process; and

WHEREAS, MMC 8-3.204(d) provides that a purchase may also be exempted where the Purchasing Manager, in her discretion, determines that a process other than the formal bid procedure set forth in Section 8-3.203 will result in a procurement for the City at the lowest possible cost commensurate with the desired quality; and

WHEREAS, N & S Tractor should be exempt from the formal bidding procedure in accordance with Modesto Municipal Code 8-3.204(b), since they were the sole vendor who had this specialized equipment available; and

WHEREAS, the Public Works Fleet Division reached out to our rental service agreement vendors for this type of equipment, Herc Rentals, Modesto, CA, and United Rentals, Modesto, CA, and this equipment was not available in their rental fleet

inventory. Additionally, Fleet Divisions solicited quotes on this type of rental equipment to six different vendors and N & S Tractor was the only vendor who responded that had this equipment available.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves an On-Call Rental Services Agreement with N & S Tractor, Turlock, California, for one-year with a one-year extension option, for an annual estimated amount of \$75,000 and a total amount not to exceed \$150,000 over two years.

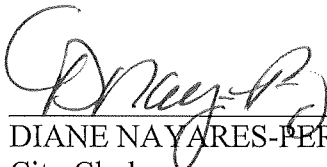
BE IT FURTHER RESOLVED, that the City Manager, or his designee, is hereby authorized to execute the agreement, in a form approved by the City Attorney.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 27th day of September, 2022, by Councilmember Kenoyer, who moved its adoption, which motion being duly seconded by Councilmember Madrigal, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Escutia-Braaton, Kenoyer, Madrigal, Ricci, Wright, Mayor Zwahlen

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST:   
DIANE NAYARES-PEREZ, CMC,  
City Clerk

(SEAL)

APPROVED AS TO FORM:

BY:   
JOSE M. SANCHEZ, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2022-396**

**RESOLUTION APPROVING AN AGREEMENT WITH O'DELL  
ENGINEERING INC. TO PREPARE THE TUOLUMNE RIVER REGIONAL  
PARK (TRRP) MASTER PLAN UPDATE FOR AN AMOUNT OF \$268,641, PLUS  
\$32,237 FOR ADDITIONAL SERVICES, IF NEEDED, FOR AN AGREEMENT  
TOTAL NOT TO EXCEED \$300,878 AND AUTHORIZING THE CITY  
MANAGER, OR HIS DESIGNEE TO EXECUTE THE AGREEMENT**

WHEREAS, the Tuolumne River Regional Park consists of 500-acres of riparian land within the City of Modesto and Stanislaus County; and

WHEREAS, in the early 1960's, the community determined the Tuolumne River waterway within Modesto should be restored, preserved, and enhanced as an open space river corridor to provide Stanislaus County residents with conservation and recreation benefits and contribute to the economics of the region; and

WHEREAS, this effort resulted in the development of a land use plan and refined Master Plan(s) for specific sections of the river corridor; and

WHEREAS, these preliminary efforts were the basis for the 1972 formation of the Tuolumne River Regional Park (TRRP) Joint Powers Authority (JPA), consisting of the City of Ceres, City of Modesto and County of Stanislaus; and

WHEREAS, in 1999, the Tuolumne River Regional Park Commission updated the original land use plan, which included preparation of a TRRP Master Plan and Master Environmental Impact Report; and

WHEREAS, the Master Plan and Master Environmental Impact Report (MEIR) were developed over a two-year period and were certified by the TRRP Commission and adopted by Ceres City Council, Modesto City Council and County Board of Supervisors in 2001; and

WHEREAS, since adoption of the 2001 TRRP Master Plan, economic, operational and site conditions, have changed and to meet the needs of the public demand and pursue a more sustainable operating structure for TRRP, the TRRP Commission recognizes the need for a Master Plan Update; and

WHEREAS, there are four areas of the Master Plan Update which are anticipated to be the focus of the intensive design changes during this update: Legion Park Area, northern half of the Gateway Parcel Area, Golf Course Area and Carpenter Road Area; and

WHEREAS, the Master Plan Update process shall include community and stakeholder outreach, concept plan preparation, opportunities and constraints analysis including program development, preliminary and final master plans, environmental documentation, economic development strategy, and multi-agency government approvals; and

WHEREAS, in accordance with Administrative Directive 3.1, “Selection Procedures for Professional Consultants Who Provide Architectural & Engineering for Capital Projects,” staff initiated a Request for Qualifications and Proposals (RFQ/P) to perform Professional Design Consulting Services; and

WHEREAS, on September 15, 2021, the City’s Parks Planning and Development Division issued a Request for Proposals (RFP) # PPD-21-02 for professional design consulting services for the TRRP Master Plan Update; and

WHEREAS, on October 19, 2021, staff received one (1) consultant proposal and a consultant selection committee was formed and met to review the proposal received; and

WHEREAS, the committee determined that the prospective professional design consultant, O'Dell Engineering, Inc., is well qualified to complete the project; and

WHEREAS, in accordance with Modesto Municipal Code Sec. 8-3.204(a), Exceptions to Formal Bidding Requirements, the agreement is for professional services and, therefore, exempt from the bidding requirement.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves an agreement with O'Dell Engineering Inc. to prepare the Tuolumne River Regional Park (TRRP) Master Plan Update for an amount of \$268,641, plus \$32,237 for additional services, if needed, for an agreement total not to exceed \$300,878.

BE IT FURTHER RESOLVED that the City Manager, or his designee, is authorized to execute the agreement, in a form approved by the City Attorney.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 27th day of September, 2022, by Councilmember Kenoyer, who moved its adoption, which motion being duly seconded by Councilmember Madrigal, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Escutia-Braaton, Kenoyer, Madrigal, Ricci, Wright, Mayor Zwahlen

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST:   
DIANE NAYARES-PEREZ, CMC,  
City Clerk

(SEAL)

APPROVED AS TO FORM:

BY:   
JOSE M. SANCHEZ, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2022-397**

**RESOLUTION APPROVING THE COMPETITIVE BIDDING PROCESS FROM NATIONAL PURCHASING PARTNERS (NPPGOV), LEAGUE OF OREGON CITIES, WITH PARK ASSOCIATES, INC. DBA PARK PLANET FOR THE PURCHASE AND DELIVERY OF A SENSORY WALL FOR THE AWESOME SPOT PLAYGROUND AT BEYER COMMUNITY PARK, FOR A COST NOT TO EXCEED \$172,400; AND AUTHORIZING THE PURCHASING MANAGER, OR HER DESIGNEE, TO ISSUE THE PURCHASE ORDER**

WHEREAS, in 2015, the community rallied together in support of designing an all-inclusive playground at Beyer Park; and

WHEREAS, the desire was to build a playground that would be the first of its kind in the region, providing accessibility to people of all ages with a wide range of physical abilities to be able to play together side-by-side; and

WHEREAS, on March 22, 2016, by Resolution No. 2016-103, Council approved a Grant and License Agreement with Shane’s Inspiration for the conceptual design services related to the development of an inclusive playground at Beyer Community Park; and

WHEREAS, the project has been officially titled “The Awesome Spot Playground” (TASP) and construction documents have been completed with the help of local design professionals; and

WHEREAS, on June 5, 2018, by Resolution No. 2018-191 Council approved a fiscal sponsorship agreement with Valley Mountain Regional Center (VMRC) to act as the non-profit sponsor of the project; and

WHEREAS, on July 12, 2022, by Resolution No. 2022-307, Council approved the use of American Rescue Plan Act (ARPA) funding in the amount of \$500,000 to purchase playground equipment and other materials for TASP; and

WHEREAS, staff worked with TASP team to obtain a bid for the needed sensory wall, which is a play element that also acts as a retaining wall in the playground; and

WHEREAS, Finance Department's Purchasing Division suggested "piggyback" on an existing competitively bid contract, National Purchasing Partners, LLC., (NPP) Request for Proposals (RFP) # 2060 for Park, Playground and Recreation Equipment, advertised in the USA Today, The Oregon Daily Journal, the City of Oregon website, Find RFP website, and NPP website; and

WHEREAS, on January 15, 2021, ten (10) proposals were received and eight (8) contracts were awarded for the Park, Playground and Recreation Equipment; and

WHEREAS, Park Planet was awarded contract #PS21050 effective April 1, 2021 through April 1, 2027; and

WHEREAS, through this contract, Park Planet has provided a quote for the sensory wall at Beyer Community Park in the amount of \$172,400; and

WHEREAS, the installation of the playground equipment is not included in the purchase price and will be completed by the general contractor for TASP at no cost to the City, and

WHEREAS, Modesto Municipal Code Section 8-3.203 generally requires all purchases, which meet or exceed \$50,000 for material, equipment or contractual services to be formally bid. However, exceptions to the formal bidding process are granted in MMC 8-3.204(d) "Where the Purchasing Manager, in his or her discretion, determines that a process other than the formal bid procedure set for in Section 8-3.203 will result in procurement for the City at the lowest possible cost commensurate with the desired quality." In addition, MMC 8-3.202(h) encourages the Purchasing Manager to join with

the State of California and other units of government in cooperative purchasing plans when the best cost savings interest of the City would be served.

NOW, THEREFORE BE IT RESOLVED, by the Council of the City of Modesto that it hereby approves the competitive bidding process from National Purchasing Partners (NPPGov), League of Oregon Cities, with Park Associates, Inc. DBA Park Planet for the Purchase and Delivery of a Sensory Wall for The Awesome Spot Playground at Beyer Community Park, for a cost not to exceed \$172,400.

BE IT FURTHER RESOLVED that the Purchasing Manager, or her designee, is authorized to issue the purchase order.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 27th day of September, 2022, by Councilmember Kenoyer, who moved its adoption, which motion being duly seconded by Councilmember Madrigal, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Escutia-Braaton, Kenoyer, Madrigal, Ricci,  
Wright, Mayor Zwahlen

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST:   
DIANE NAYARES-PEREZ, CMC,  
City Clerk

(SEAL)

APPROVED AS TO FORM:

BY:   
JOSE M. SANCHEZ, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2022-398**

**RESOLUTION AUTHORIZING PAYMENTS NOT TO EXCEED \$160,000 TO BELFOR PROPERTY RESTORATION, MODESTO, CA AND OTHER VENDORS FOR EMERGENCY WORK RELATED TO THE AMERICAN LEGION HALL FIRE REMEDIATION; AND AUTHORIZING THE PURCHASING MANAGER, OR HER DESIGNEE, TO ISSUE THE PAYMENTS**

WHEREAS, on July 21, 2022, the American Legion Hall was heavily damaged by a fire; and

WHEREAS, the Modesto Fire Department responded to the scene, located at 1021 South Santa Cruz Avenue, and was able to extinguish the blaze and limit the interior damage as much as possible but the damage is significant; and

WHEREAS, the insurance company dispatched Belfor Property Restoration of Modesto, CA (Belfor) to complete emergency work at the site; and

WHEREAS, on July 22, 2022, Belfor provided emergency services / mitigation to secure the property against additional damages, perform environmental testing, remove debris resulting from the fire, remove the deck and fence the structure off to protect the public from unnecessary hazards; and

WHEREAS, Belfor's initial budget estimate for this work is between \$123,000 and \$126,000; and

WHEREAS, the City sent Allied Security to secure the property and make sure the public was safe until Belfor was able to place fencing around the site and remove the deck that was creating a significant hazard; and

WHEREAS, Allied Security was at the site for about two weeks and the costs incurred for their services totaled about \$4,000; and

WHEREAS, there are two large trees adjacent to the American Legion Hall that have significant damage and either need heavy trimming or will need to be removed; and

WHEREAS, staff has obtained quotes for the tree work from our on-call vegetation management company (West Coast Arborists) of a total not to exceed about \$15,000; and

WHEREAS, to ensure that we are requesting permission to cover all necessary emergency expenses staff is requesting an additional \$15,000 (10%) of currently anticipated expenditures be added to this request; and

WHEREAS, the total estimate cost of all emergency work including the additional 10% is \$160,000; and

WHEREAS, the City of Modesto's property insurance policy establishes a maximum deductible (out-of-pocket cost to the City) of \$100,000; and

WHEREAS, insurance adjuster confirmed that all of the above costs will be covered expenses and once the City has paid for \$100,000 of work, the insurance company will provide payment to the City to reimburse them for any of these emergency expenses in addition to other payments for the Actual Cash Value of the American Legion Hall once that is determined; and

WHEREAS, Modesto Municipal Code Section 8-3.203 generally requires all purchases, which meet or exceed \$50,000 for material, equipment or contractual services to be formally bid but exceptions to the formal bidding process are granted in MMC 8-3.204(c) "Where the Purchasing Manager, in his or her discretion, determines that calling for bids on a competitive basis as set forth in Section 8-3.203 is undesirable due to exigent circumstances"; and

WHEREAS, project meets these requirements, as the contractor has been selected directly by the insurance company and it makes the best business sense to utilize their services,

given the active insurance claim and the need for this work to be completed as soon as possible to minimize the risk to the public.

NOW, THEREFORE BE IT RESOLVED, by the Council of the City of Modesto that it hereby approves payments not to exceed \$160,000 to Belfor Property Restoration, Modesto, CA and other vendors for emergency work related to the American Legion Hall fire remediation.

BE IT FURTHER RESOLVED that the Purchasing Manager, or her designee, is authorized to issue the payments.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 27th day of September, 2022, by Councilmember Kenoyer, who moved its adoption, which motion being duly seconded by Councilmember Madrigal, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Escutia-Braaton, Kenoyer, Madrigal, Ricci, Wright, Mayor Zwahlen

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST:

  
DIANE NAYARES-PEREZ, CMC,  
City Clerk

(SEAL)

APPROVED AS TO FORM:

BY:

  
JOSE M. SANCHEZ, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2022-399**

**RESOLUTION APPROVING A THIRD AMENDMENT TO THE AGREEMENT WITH WILLDAN, INC., FOR TRAFFIC ENGINEERING SERVICES INCREASING THE AMOUNT BY \$15,000 FROM \$255,000 TO A NEW TOTAL AMOUNT OF \$270,000, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE AMENDMENT**

WHEREAS, on August 13, 2019, by Resolution No. 2019-369, Council approved an Agreement with Willdan, Inc. for Traffic Engineering Services in an amount not to exceed \$145,000 for up to one year; and

WHEREAS, the City is currently using Willdan, Inc. to provide engineering expertise and assistance to the Traffic Engineering Division since the retirement of the Traffic Engineer July 2019; and

WHEREAS, Willdan provided a Traffic Engineering consultant to be available 28 hours a week to help ensure that current CIP projects will remain on schedule, provide guidance on complaints/issues, and provide technical support; and

WHEREAS, due to the workload, the FY 20/21 budget for Traffic Engineering approved \$30,000 in professional services to help assist with projects and the various tasks to keep the Traffic Engineering Division running efficiently; and

WHEREAS, on October 27, 2020, by Resolution No. 2020-442, Council approved the First Amendment increasing the agreement amount with Willdan, Inc., for Traffic Engineering services by \$60,000 from \$145,000 to a new total not to exceed amount of \$205,000, and extending the term of the agreement from one year to two years with a one-year extension option; and

WHEREAS, on April 6, 2021, by Resolution No. 2021-118, Council approved the Second Amendment increasing the agreement amount with Willdan, Inc., for Traffic

Engineering services by \$50,000 from \$205,000 to a new total not to exceed amount of \$255,000; and

WHEREAS, the second amendment was needed for degradation samples of the poles and re-certification of wind/load calculations for the Upgrade Advanced Traffic Management System (ATMS) Project (101192) and American Disability Act (ADA) locations needing to be upgraded within Caltrans right-of-way for the Transit division; and

WHEREAS, Willdan has already assisted the Traffic Division to secure five projects totaling \$1.7 million in Congestion Mitigation and Air Quality (CMAQ) Grants and also assisted the City to secure \$3.2 million in Highway Safety Improvement Program (HSIP) Grant funding for three safety projects; and

WHEREAS, Willdan's current contract expired August 13, 2022; and

WHEREAS, given the current workload and limited resources within the Traffic Division, City staff would like to amend Willdan's contract to increase the budget by \$15,000 for a total agreement amount not to exceed \$270,000 and extend the term of the contract by another year; and

WHEREAS, this increase would allow Willdan to continue to assist Traffic Engineering Division to secure state and federal funding for safety and intelligent transportation system projects as funding becomes available; and

WHEREAS, in accordance with Modesto Municipal Code 8-3.204(a) Exceptions to Formal Bidding Requirements, this agreement is for professional services and, therefore, exempt from the bid requirement.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the Third Amendment increasing the agreement amount with Willdan, Inc., for Traffic Engineering services by \$15,000 from \$255,000 to a new total amount of \$270,000.

BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to execute the amendment, in a form approved by the City Attorney.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 27th day of September, 2022, by Councilmember Kenoyer, who moved its adoption, which motion being duly seconded by Councilmember Madrigal, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Escutia-Braaton, Kenoyer, Madrigal, Ricci, Wright, Mayor Zwahlen

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST:   
DIANE NAYARES-PEREZ, CMC,  
City Clerk

(SEAL)

APPROVED AS TO FORM:

BY:   
JOSE M. SANCHEZ, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2022-400**

**RESOLUTION APPROVING THE PLANS AND SPECIFICATIONS FOR THE  
RETROREFLECTIVE BACKPLATES AND STRIPING PROJECT,  
ACCEPTING THE BID, AND AWARDING A CONTRACT TO TENNYSON  
ELECTRIC, INC. OF LIVERMORE CA, IN THE AMOUNT OF \$566,317 AND  
AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE  
THE AGREEMENT**

WHEREAS, plans and specifications have been prepared for the Retroreflective Backplates and Striping project, and City staff recommends approval by the City Council, and

WHEREAS, the bids received for the Retroreflective Backplates and Striping project, were publicly opened at 11:00 a.m. on July 19, 2022, and later tabulated by the Director of Public Works for the consideration of Council, and

WHEREAS, the Director of Public Works has recommended that the bid of \$566,317 received from Tennyson Electric, Inc. of Livermore, CA be accepted as the lowest responsible and responsive bid and that the contract be awarded to Tennyson Electric, Inc., and

WHEREAS, Modesto Municipal Code Section 8-3.203 generally requires all purchases, which meet or exceed \$50,000 for material, equipment or contractual services, to follow the formal bid procedures, and

WHEREAS, an award of \$566,317 and agreement for construction for Public Works Department to use Tennyson Electric, Inc. of Livermore, CA, conforms to the Modesto Municipal Code because the City complied with the formal bid procedures and Tennyson Electric, Inc. of Livermore, CA, was the lowest responsive bidder, and

WHEREAS, the City's "Change Order Approval Policy" enacted by Council Resolution No. 94-443 on July 19, 1994, and updated by Resolution No. 2019-326 on July 9, 2019, established a contract change order budget of 10% for construction contracts at least \$250,000 but less than \$1,000,000.

NOW, THEREFORE BE IT RESOLVED, by the Council of the City of Modesto that it hereby approves the plans and specifications for the Retroreflective Backplates and Striping project, accepts the bid Tennyson Electric, Inc. of Livermore, CA, in the amount of \$566,317 and awards Tennyson Electric, Inc. the contract for the RRFB Installation project.


BE IT FURTHER RESOLVED, that the City Manager, or his designee, is hereby authorized to execute the contract, in a form approved by the City Attorney.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 27th day of September, 2022, by Councilmember Kenoyer, who moved its adoption, which motion being duly seconded by Councilmember Madrigal, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Escutia-Braaton, Kenoyer, Madrigal, Ricci, Wright, Mayor Zwahlen

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST:   
DIANE NAYARES-PEREZ, CMC,  
City Clerk

(SEAL)

APPROVED AS TO FORM:

BY:   
JOSE M. SANCHEZ, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2022-401**

**RESOLUTION AMENDING THE FISCAL YEAR 2022-2023 CAPITAL  
IMPROVEMENT PROGRAM (CIP) BUDGET, PROJECT #101188 IN THE  
AMOUNT OF \$305,000 TO FUND RETROREFLECTIVE BACKPLATES AND  
STRIPING PROJECT AND AUTHORIZING THE CITY MANAGER, OR HIS  
DESIGNEE, TO TAKE THE NECESSARY STEPS TO IMPLEMENT THE  
PROVISIONS OF THIS RESOLUTION**

WHEREAS, the retroreflective backplates and striping project will replace outdated signal heads at various locations within the City, and

WHEREAS, the project was advertised for bids on June 14, 2022 and opened publicly on July 19, 2022 and Tennyson Electric Inc. of Livermore, CA was the apparent low bidder which was 40% above the engineers estimate, and

WHEREAS, the Traffic Engineering division reached out to Stanislaus Council of Governments (StanCOG) to request additional funding, and

WHEREAS, on July 28, 2022, StanCOG approve the administration modification number 13 providing an additional \$305,000 to the project, and

WHEREAS, the funds were allocated through federal Surface Transportation Block Grant (STBG) funds with toll credits being used in lieu of a local match, and

WHEREAS, the additional funding in the amount of \$305,000 needs to be budgeted to project #101188, and

WHEREAS, the City Council shall consider amending the Capital Improvement Program (CIP) budget Project #101188 in the amount of \$305,000 to recognize the STBG funds and increase the project expense budget.

NOW, THEREFORE, BE IT RESOLVED, that the Council of the City of Modesto that it hereby amends the Fiscal Year 2022-2023 Capital Improvement Program

(CIP) Budget Project #101188 in the amount of \$305,000 to fund the retroreflective backplates and striping project.

BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to implement the provision of this resolution.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 27th day of September, 2022, by Councilmember Kenoyer, who moved its adoption, which motion being duly seconded by Councilmember Madrigal, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Escutia-Braaton, Kenoyer, Madrigal, Ricci, Wright, Mayor Zwahlen

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST:

  
DIANE NAYARES-PEREZ, CMC,  
City Clerk

(SEAL)

APPROVED AS TO FORM:

BY:

  
JOSE M. SANCHEZ, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2022-402**

**RESOLUTION ACCEPTING THE 2018-2019 SEWER REPLACEMENT  
PROJECT AT COVENA AVENUE AND SUTTER AVENUE & NIAN WAY  
INTERSECTION AS COMPLETE, AUTHORIZING ALL NECESSARY STEPS  
TO FILE WITH THE COUNTY RECORDER, RELEASING SECURITIES, AND  
RELEASING PAYMENTS TOTALING \$370,189 TO ROLFE CONSTRUCTION,  
ATWATER, CA**

WHEREAS, the City's Wastewater Collections group identified the existing sewer line on Covena Ave. as being an ongoing maintenance issue; and

WHEREAS, the existing sewer line was hydraulically deficient with an inadequate slope; and

WHEREAS, as a result of these deficiencies, Wastewater Collection personnel had to clean the sewer line routinely, up to twice per month; and

WHEREAS, due to these conditions, the sewer line was replaced and installed with an adequate slope to provide a more reliable sewer system; and

WHEREAS, in addition, the existing manholes were replaced due to the change in the vertical alignment of the sanitary sewer line; and

WHEREAS, Wastewater Collections also identified two manholes in poor condition at the intersection of Sutter Avenue and Nian Way; and

WHEREAS, one of the manholes was structurally deficient; and

WHEREAS, these two manholes were also replaced to provide a reliable system and to protect the safety of the public; and

WHEREAS, the project was advertised for bids on July 13, 2021. Bids were publicly opened on August 10, 2021. pursuant to Modesto Municipal Code section 8-

3.403 and City Charter Section 1307. Four bids were received and Rolfe Construction, Inc., Atwater, CA was the apparent low bidder; and

WHEREAS, on October 12, 2021 by Resolution 2021-410, Council awarded a contract to Rolfe Construction Company Inc, of Atwater, CA, for the construction of the 2018-2019 Sewer Replacement project in the amount of \$383,116; and

WHEREAS, the contractor received the Notice to Proceed with a first working day of January 31, 2022. All contract work was completed by May 18, 2022; and

WHEREAS, the total project costs were \$473,860 which included design, construction, and construction administration costs. The total project amount originally budgeted was \$1,166,160 which included \$440,584 for the construction contract and contingency with Rolfe Construction, Inc., Atwater, CA.; and

WHEREAS, the City's "Change Order Approval Policy" enacted by Council Resolution No. 94-443 on July 19, 1994, and updated by Resolution No. 2019-326 on July 9, 2019, states that a contract of at least \$250,000 but less than \$1,000,000 allows Director's Authority not to exceed eight percent of the contract amount; and

WHEREAS, on October 12, 2021, by Resolution No. 2021-411, council authorized the Director of Utilities approval of change orders up to 15% of the original contract price for the 2018-2019 Sewer Replacement project. Therefore, the approved contingency amount for the project was \$57,468; and

WHEREAS, there were two change orders on this project with an overall decrease of \$12,927; and

WHEREAS, by accepting this project as complete, the City officially accepts the improvements made and authorizes the Notice of Completion to be filed.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby accepts the 2018-2019 Sewer Replacement project at Covena Avenue and Sutter Avenue & Nian Way intersection, as complete and authorizes the City Clerk to complete all necessary steps to file the appropriate notices and documents with the County Recorder, release securities, and authorize payments totaling \$370,189 to Rolfe Construction, Inc., of Atwater, CA.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 27th day of September, 2022, by Councilmember Kenoyer, who moved its adoption, which motion being duly seconded by Councilmember Madrigal, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Escutia-Braaton, Kenoyer, Madrigal, Ricci, Wright, Mayor Zwahlen  
NOES: Councilmembers: None  
ABSENT: Councilmembers: None

ATTEST:   
DIANE NAYARES-PEREZ, CMC,  
City Clerk

(SEAL)

APPROVED AS TO FORM:

BY:   
JOSE M. SANCHEZ, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2022-403**

**RESOLUTION APPROVING A WASTEWATER RATE ADJUSTMENT FOR SEPTAGE WASTE DISPOSAL FROM THE CURRENT RATE OF \$69.35 PER 1,000 GALLONS OF WASTE TO \$74.52 BEGINNING IN FISCAL YEAR 2022-23 AND SUBSEQUENTLY INCREASING 3.5% EACH YEAR THROUGH FISCAL YEAR 2026-27 IN ACCORDANCE WITH PROPOSITION 218**

WHEREAS, the City’s sewer utility is a self-supporting enterprise funded by customer revenues; and

WHEREAS, the City engaged Bartle Wells Associates (BWA) to conduct a comprehensive review of the City’s current sewer rates and fees in accordance with Proposition 218; and

WHEREAS, BWA prepared a report dated November 19, 2021 entitled City of Modesto Sewer Rate and Fee Study (the “Report”), containing analyses and recommendations for adjusting the City’s sewer rates and charges; and

WHEREAS, a copy of the Report is on file with the City Clerk; and

WHEREAS, the report concludes that the revenues generated under the existing sewer service rates and fees are insufficient to meet the revenue requirements for fiscal year 2022-23 and subsequent years; and

WHEREAS, the Report demonstrates that updated sewer service rates and fees established pursuant to this resolution:

1. Recover the reasonable estimated cost of the services for which the rates are charged
2. Provide that such costs are allocated among City sewer customers so as to bear a fair and reasonable relationship to customers burdens’ on and benefits from City sewer service

3. Ensure that charges for sewer services do not exceed the proportionate cost of providing sewer services attributable to each parcel
4. Secure the financial stability of the sewer system
5. Ensure high quality service
6. Provide a sound financial plan that will assist in funding capital improvement projects necessary to serve sewer customers

WHEREAS, the updated sewer service rates and fees established pursuant to this resolution are not levied for general revenue purposes; and

WHEREAS, the City mailed a notice of the public hearing, and a notice of oral and written protest procedures against the proposed rate increases to all affected property owners and ratepayers in compliance with California Constitution Article XIID, Section 6, at least forty-five (45) days in advance of the public hearing at which this resolution was considered; and

WHEREAS, on April 12, 2022 the City Council duly held the public hearing and at its conclusion the City Clerk tabulated the number of written protests received and reported that there was not a majority protest of the proposed sewer service rates and fees by property owners, ratepayers or their authorized representatives; and

WHEREAS, on April 12, 2022, per Resolution 2022-196 Council adopted sewer service rates effected July 1, 2022 for Fiscal Years 2022-23 through 2026-27 in accordance with Proposition 218; and

WHEREAS, after adoption of the sewer rate increase; an incorrect rate in the Bartle Wells Associate (BWA) Sewer Rate Study for septage waste fee was noticed as shown in **Exhibit A**, which is **attached** to this Resolution; and

WHEREAS, the Septage Quantity Flow Charge per 1,000 gallons as shown in **Exhibit A** lists the existing Fiscal Year 2021-22 rate as \$67.00 that subsequently increases by 3.5% thereafter to a rate of \$79.58 in Fiscal Year 2026-27; and

WHEREAS, the rate conflicted with the rate was approved per Resolution 2020-406 which lists the Septage Quantity Flow Charge per 1,000 gallons as \$72.00; and

WHEREAS, the current sewer rate structure was approved by Council on April 12, 2022. Per the BWA Sewer Rate Study, septic waste haulers are currently being charged \$69.35 per 1,000 gallons of waste that is disposed of at the City's wastewater treatment Plant; and

WHEREAS, with approval of the adjusted rate; the new fee would be \$74.52 or a 6.9% increase to any hauler that disposes their waste, as shown in **Exhibit B**. This impact would only affect waste haulers current rate who are performing maintenance of residents who still have an active septic system on their property. Table 1-2 indicates the updated rate for the current FY 22-23 and subsequent increase of 3.5% commencing in FY 26-27.

NOW, THEREFORE BE IT RESOLVED by the Council of the City of Modesto that the above recitals are true and correct, and incorporated herein.

BE IT FURTHER RESOLVED that the Council of the City of Modesto hereby approves the modified rate and adopts a rate of \$74.52 beginning in Fiscal Year 2022-23 and subsequently increasing 3.5% each year through Fiscal Year 2026-27 in accordance with Proposition 218 as shown in **Exhibit B, 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 27th day of September, 2022, by Councilmember Kenoyer, who moved its adoption, which motion being duly seconded by Councilmember Madrigal, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Escutia-Braaton, Kenoyer, Madrigal, Ricci, Wright, Mayor Zwahlen

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST:   
DIANE NAYARES-PEREZ, CMC,  
City Clerk

(SEAL)

APPROVED AS TO FORM:

BY:   
JOSE M. SANCHEZ, City Attorney

## EXHIBIT A

**Table 1-1: Proposed Rates**

<b>Proposed Sewer Rates</b>	<b>FY 21-22</b>	<b>FY 22-23</b>	<b>FY 23-24</b>	<b>FY 24-25</b>	<b>FY 25-26</b>	<b>FY 26-27</b>
	<i>Existing</i>	<i>Proposed</i>	<i>Proposed</i>	<i>Proposed</i>	<i>Proposed</i>	<i>Proposed</i>
<b>Monthly Account Charge (\$/Account)</b>	\$4.68	\$4.86	\$5.04	\$5.22	\$5.41	\$5.60
<b>Residential Rates (\$/Dwelling Unit)</b>						
Single Family Residential, Mobile Home on a lot	\$37.10	\$38.31	\$39.65	\$41.04	\$42.48	\$43.97
Multiple Family (2-4 Dwelling Units), one additional Dwelling Unit or Mobile Home on a lot	\$28.60	\$29.11	\$30.13	\$31.18	\$32.27	\$33.40
Apartments (5 or more Dwelling Units), Mobile Home Space in a Mobile Home Park	\$25.33	\$25.97	\$26.88	\$27.82	\$28.79	\$29.80
<b>Commercial Quantity Charge (\$/100 cubic feet)</b>						
Group 1-BOD + TSS is 400 mg/l or less	\$3.69	\$3.85	\$3.98	\$4.12	\$4.26	\$4.41
Group 2-BOD + TSS is 401 mg/l to 900 mg/l	\$4.89	\$5.05	\$5.23	\$5.41	\$5.60	\$5.80
Group 3-BOD + TSS is 901 mg/l to 1,400 mg/l	\$6.08	\$6.29	\$6.51	\$6.74	\$6.98	\$7.22
Group 4-BOD + TSS is 1,401 mg/l or more	\$7.52	\$7.79	\$8.06	\$8.34	\$8.63	\$8.93
<b>Industrial Charges (these three components are additive)</b>						
Flow Charge (\$/Million gallons)	\$3,657	\$3,739.76	\$3,870.65	\$4,006.12	\$4,146.33	\$4,291.45
BOD Charge (\$/1,000 lbs)	\$256	\$278.79	\$288.55	\$298.65	\$309.10	\$319.92
TSS Charge (\$/1,000 lbs)	\$511	\$519.81	\$538.00	\$556.83	\$576.32	\$596.49
<b>Septage Quantity Charge</b>						
Flow charge per 1,000 gallons	\$67.00	\$69.35	\$71.78	\$74.29	\$76.89	\$79.58
<b>CanSeg Line Charges (these three components are additive)</b>						
Flow Charge (\$/Million Gallons)	\$3,319.00	\$2,852.34	\$2,923.65	\$2,996.74	\$3,071.66	\$3,148.45
BOD Charge (\$/1,000 lbs)	\$1.73	\$19.01	\$19.49	\$19.98	\$20.48	\$20.99
TSS Charge (\$/1,000 lbs)	\$5.00	\$37.46	\$38.40	\$39.36	\$40.34	\$41.35

**EXHIBIT B**

<b>Proposed Septage Quantity Charge</b>	<b>FY 21- 22</b>	<b>FY 22- 23</b>	<b>FY 22-23</b>	<b>Proposed</b>	<b>Proposed</b>	<b>Proposed</b>	<b>Proposed</b>
	<i>Adopted</i>	<i>Adopted</i>	<i>Proposed Correction</i>	<i>7/1/2023</i>	<i>7/1/2024</i>	<i>7/1/2025</i>	<i>7/1/2026</i>
<b>Flow charge per 1,000 gallons</b>	<b>\$72.00</b>	<b>\$69.35</b>	<b>\$74.52</b>	<b>\$77.13</b>	<b>\$79.83</b>	<b>\$82.62</b>	<b>\$85.51</b>

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2022-404**

**RESOLUTION APPROVING THE CITY OF MODESTO'S CONSOLIDATED ANNUAL PERFORMANCE EVALUATION REPORT FOR PROGRAM YEAR 2021-2022 AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO SIGN THE REQUIRED DOCUMENTS FOR SUBMITTAL TO THE U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT**

WHEREAS, each year, the City receives Community Development Block Grant (CDBG), HOME Investment Partnerships (HOME), and Emergency Solutions Grant (ESG) funding from the U.S. Department of Housing and Urban Development (HUD), and

WHEREAS, the objective of the CDBG Program is to develop viable urban through decent housing and a suitable living environment, and by expanding economic opportunities, principally for low- and moderate-income persons by supporting activities such as public facilities improvements, social services, affordable housing, fair housing, economic development and addressing homelessness, and

WHEREAS, the HOME program supports a wide range of activities including building, buying, and/or rehabilitating affordable housing for rent or homeownership or providing direct rental assistance to low-income people, and

WHEREAS, the ESG program provides funding for a variety of services including but not limited to engaging homeless individuals and families, emergency shelters, homeless prevention, and rapid rehousing activities, and

WHEREAS, to be eligible for funding awards, HUD requires the City to develop and adopt a Consolidated Plan every five years that analyzes the City's housing and community development needs, with priority on serving low- and moderate-income individuals, households, and neighborhoods (as defined by HUD), and establishes a 5-

year strategy outlining how the City will utilize CDBG, HOME and ESG funding for meeting the needs identified, and

WHEREAS, as a component of the five-year Consolidated Plan, the City must annually prepare and adopt an Annual Action Plan outlining the projects to be carried out for each particular Program Year within the five-year period, and

WHEREAS, at the conclusion of each program year, the City is required to prepare a Consolidated Annual Performance Evaluation Report (CAPER) detailing how the City spent its CDBG, HOME, and ESG funds during a particular program year, the progress of each project identified in the Annual Action Plan, and how the projects aligned with both the Annual Action Plan and Consolidated Plan, and

WHEREAS, the CAPER must be submitted to HUD no later than 90 days after the completion of the Program Year, therefore the CAPER is due to HUD no later than September 28, 2022, and

WHEREAS, a notice informing the public of the availability of the Program Year 2021-2022 CAPER, and the start of the public comment period, was published in the Modesto Bee August 22, 2022, and

WHEREAS, the public review comment period will close on September 27, 2022, and

WHEREAS, the Citizens' Housing and Community Development Committee (CH&CDC) considered the proposed CAPER on August 25, 2022, and recommended forwarding it to the City Council for approval, and

WHEREAS, a duly noticed public hearing was held by the City Council on September 27, 2022 at 5:30 p.m., in the Tenth Street Place Chambers, located at 1010

Tenth Street, and

WHEREAS, any comments received during the public review period or during the City Council meeting will be incorporated into the final CAPER.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the 2021-2022 Consolidated Annual Performance Evaluation Report for submittal to HUD.

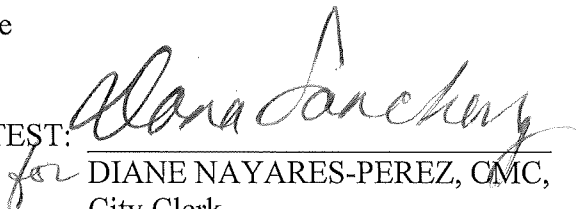
BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to sign any required certifications and documents for submittal to the U.S. Department of Housing and Urban Development.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 27th day of September, 2022, by Councilmember Madrigal, who moved its adoption, which motion being duly seconded by Vice Mayor Wright, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Escutia-Braaton, Kenoyer, Madrigal, Ricci, Wright, Mayor Zwahlen

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST:   
for DIANE NAYARES-PEREZ, CMC,  
City Clerk

(SEAL)

APPROVED AS TO FORM:

BY:   
JOSE M. SANCHEZ, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2022-405**

**RESOLUTION APPROVING A WILL SERVE LETTER AND OUTSIDE SERVICE AGREEMENT TO CONNECT TO THE CITY OF MODESTO'S EXISTING WATER SYSTEM FOR THE PROPERTY LOCATED AT 6942 ST. JOHN ROAD IN MODESTO (APN: 004-076-003) AND AUTHORIZING THE CITY MANAGER OR HIS DESIGNEE, TO APPROVE THE WILL SERVE LETTER AND EXECUTE THE OUTSIDE SERVICE AGREEMENT**

WHEREAS, Grewal RE Holdings, LLC, a limited liability, owns property located at 6942 St. John Road, and

WHEREAS, a representative of the property owner has requested water service connection, and

WHEREAS, on May 22, 2012, the City Council approved Resolution No. 2012-202 that amended City Council Policy 5.001, and

WHEREAS, on June 5, 2012, the City Council approved final adoption of Ordinance No. 3566-C.S. amending City of Modesto Municipal Code Section 11-1.05, and

WHEREAS, both of these amendments included language which required that the City Manager, upon the recommendation of the Director responsible for utility system planning, request City Council approval for all extensions of water services into unincorporated areas, and

WHEREAS, on November 25, 2014, the City Council approved Resolution No. 2014-472 that amended City Council Policy 5.001, and

WHEREAS, on December 9, 2014, the City Council approved adoption of Ordinance No. 3611-C.S. amending City of Modesto Municipal Code Section 11-1.05, and

WHEREAS, both of these amendments included language allowing the City Manager upon the recommendation of the Director responsible for utility system planning, to approve standard agreements of service for extension of water services into certain unincorporated areas that are located within the former Del Este Water Service Area without City Council approval, and

WHEREAS, the property located at 6942 St. John Road is not located within the former Del Este Water Service area and therefore requires City Council approval prior to allowing the new water service connection, and

WHEREAS, it has been determined that a sufficient quantity of potable water is available for normal usage by the proposed development, and

WHEREAS, the water connection fees will be paid and associated permits be obtained prior to beginning any on site construction.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the Will Serve Letter and Outside Service Agreement for Water Service for the property located at 6942 St. John Road in Modesto (APN: 004-076-003).

BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to approve the Will Serve Letter and execute the Outside Service Agreement for Water Service.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 4th day of October, 2022, by Councilmember Kenoyer, who moved its adoption, which motion being duly seconded by Vice-Mayor Wright, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Escutia-Braaton, Kenoyer, Madrigal, Ricci, Wright, Mayor Zwahlen

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST:

  
\_\_\_\_\_  
DIANE NAYARES-PEREZ, CMC,  
City Clerk

(SEAL)

APPROVED AS TO FORM:

BY:

  
\_\_\_\_\_  
JOSE M. SANCHEZ, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2022-406**

**RESOLUTION APPROVING AMENDMENT #1 TO THE FACILITY AND  
FLEET MAINTENANCE AGREEMENTS BETWEEN THE CITY OF MODESTO  
AND THE STANISLAUS REGIONAL TRANSIT AUTHORITY AND  
AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE  
THE AMENDMENTS**

WHEREAS, on January 26, 2021, by Resolution 2021-26, Council approved a Joint Powers Agency (JPA) agreement with Stanislaus County to form the Stanislaus Regional Transit Authority, and

WHEREAS, on April 6, 2021, by Resolution 2021-114, Council approved an amendment to the JPA agreement with Stanislaus County to form the Stanislaus Regional Transit Authority, and

WHEREAS, on June 22, 2021, by Resolution 2021-251, Council approved the various agreements with the Stanislaus Regional Transit Authority to transition City transit services to the Stanislaus Regional Transit Authority, and

WHEREAS, the transition of transit services from the City to the Authority and the transfer of assets occurred on July 1, 2021, and

WHEREAS, during the transition of operations to the Stanislaus Regional Transit Authority, certain updates to the facility and fleet maintenance agreements were discovered, and

WHEREAS, Amendment #1 to the facility and fleet maintenance agreements grants the City Manager and Executive Director authority to approve minor amendments to the agreement without further approval from the governing board of the City or Stanislaus Regional Transit Authority, and

WHEREAS, Amendment #1 to the facility and fleet maintenance agreements

updated various rates charged to Stanislaus Regional Transit Authority to capture changes in labor costs and discretionary expenses, and

WHEREAS, Amendment #1 to the fleet maintenance agreement allows the City of Modesto to recoup costs for expenses not fully captured by the hourly maintenance rate and fixed management and staff support rate, or issue payment to Stanislaus Regional Transit Authority if payments received exceed true costs at fiscal year-end.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves Amendment #1 to the facility and fleet maintenance agreements between the City of Modesto and Stanislaus Regional Transit Authority.

BE IT FURTHER RESOLVED, that the City Manager, or his designee, is authorized to execute the amendments, in a form approved by the City Attorney.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 4th day of October, 2022, by Councilmember Kenoyer, who moved its adoption, which motion being duly seconded by Vice-Mayor Wright, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Escutia-Braaton, Kenoyer, Madrigal, Ricci, Wright, Mayor Zwahlen

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST:   
DIANE NAVARES-PEREZ, CMC,  
City Clerk

(SEAL)

APPROVED AS TO FORM:

BY:   
JOSE M. SANCHEZ, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2022-407**

**RESOLUTION APPROVING THE THIRD AMENDMENT TO THE AGREEMENT WITH GROVER LANDSCAPE SERVICES, INC., MODESTO, CA, FOR LANDSCAPE SERVICES TO EXTEND THE TERM PERIOD FOR UP TO AN ADDITIONAL SIX MONTHS AND INCREASING THE AMOUNT OF THE AGREEMENT BY AN AMOUNT NOT TO EXCEED \$1,331,868 FOR THE EXTENSION PERIOD, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE AMENDMENT**

WHEREAS, on October 25, 2016, by Resolution No. 2016-436, Council awarded the bid and five-year agreement for Landscape Maintenance Services to Grover Landscape Services, Inc. for a total amount of \$8,331,208, and

WHEREAS, on February 5, 2019, by Resolution No. 2019-46, Council approved the First Amendment to the Agreement increasing the amount by \$1,253,264 to a new total amount of \$9,584,472, for site changes, additional repairs, and service level increases, and

WHEREAS, on May 4, 2021, by Resolution 2021-172, Council approved the Second Amendment to the Agreement increasing the amount by \$3,457,775 from \$9,584,472 to a new total amount of \$13,042,247, and extending the term for one year from October 24, 2021 to October 24, 2022, and

WHEREAS, staff is concerned with the recent dramatic increase in the costs of goods and services and is in the process of researching the City's service agreements that were recently approved and comparing with surrounding municipalities, and

WHEREAS, staff is requesting a six-month extension to complete researching the impact of inflation on related RFPs issued by the City and other surrounding jurisdictions, and

WHEREAS, staff is requesting compensation for the Agreement to be increased by \$1,331,868 to provide sufficient funding for landscape services through the extension of the agreement, and

WHEREAS, Municipal Code section 8-3.204(d), the City is not required to use the normal bidding procedures when the Purchasing Manager determines that a different process will result in a procurement for the City at the lowest possible cost commensurate with the desired quality. The proposed temporary extension will allow the City to maintain service levels, with a modest price increase, while staff researches the impact of inflation on a possible RFP for a long-term agreement to ensure that the City is able to obtain the best price possible.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the Third Amendment to the Agreement with Grover Landscape Services, Inc., Modesto, CA, for Landscape Services to extend the term period for up to an additional six months and increasing the amount of the Agreement by an amount not to exceed \$1,331,868 for the extension period.


BE IT FURTHER RESOLVED that the City Manager, or her designee, is hereby authorized to execute the amended Agreement in a form approved by the City Attorney.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 4th day of October, 2022, by Councilmember Kenoyer, who moved its adoption, which motion being duly seconded by Vice-Mayor Wright, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Escutia-Braaton, Kenoyer, Madrigal, Ricci, Wright, Mayor Zwahlen

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST:   
DIANE NAYARES-PEREZ, CMC,  
City Clerk

(SEAL)

APPROVED AS TO FORM:

BY:   
JOSE M. SANCHEZ, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2022-408**

**RESOLUTION AUTHORIZING STAFF TO APPLY FOR ALL CALIFORNIA DEPARTMENT OF RESOURCES RECYCLING AND RECOVERY BEVERAGE CONTAINER RECYCLING GRANTS AVAILABLE, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO SIGN GRANT APPLICATIONS AND RELATED FORMS, ACCEPT GRANT AWARDS, AND AMEND THE BUDGET AS NEEDED**

WHEREAS, pursuant to California Code of Regulations Title 14. Natural Resources, Division 2. Department of Conservation, Chapter 5. Division of Recycling, the Department of Resources Recycling and Recovery (CalRecycle) has established various grant programs in furtherance of the State of California's efforts to reduce, reuse, and recycle solid waste generated in the state; and

WHEREAS, in furtherance of this authority, CalRecycle is required to establish procedures governing the administration, awarding, and management of grant programs; and

WHEREAS, the City of Modesto benefits from CalRecycle grant programs by receiving funding for the purchase of equipment or materials related to infrastructure, direct operating expenses, education and outreach opportunities, personnel, and various other expenses related to promoting beverage container recycling and applicable under the conditions of the specific grant program.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby authorizes staff to apply for all CalRecycle Beverage Container Recycling Grants available.

BE IT FURTHER RESOLVED, that the City Manager, or his designee, is authorized to sign grant applications and related forms, accept grant awards, and amend

the budget as needed.

BE IT FURTHER RESOLVED, that these authorizations are effective for five years 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 4th day of October, 2022, by Councilmember Kenoyer, who moved its adoption, which motion being duly seconded by Vice-Mayor Wright, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Escutia-Braaton, Kenoyer, Madrigal, Ricci, Wright, Mayor Zwahlen

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST:



DIANE NAYARES-PEREZ, CMC,  
City Clerk

(SEAL)

APPROVED AS TO FORM:

BY:



JOSE M. SANCHEZ, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2022-409**

**RESOLUTION APPROVING THE APPOINTMENTS OF KWEI-CEE CHU,  
LINDSEY BIRD, AND FALLON FERRIS TO THE EQUITY COMMISSION  
WITH A TERM EXPIRATION OF OCTOBER 1, 2026**

WHEREAS, the Affirmative Action Commission of the City of Modesto was established pursuant to the provisions of the Affirmative Action Program established by Modesto City Council Resolution No. 87-237 on April 7, 1987; and

WHEREAS, with the passage of Proposition 209, the City reviewed its employment policies, affirmative action policies and other relevant policies and procedures and amended them as necessary to comply with Proposition 209; and

WHEREAS, as part of the compliance effort, the Commission retitled from the Affirmative Action Commission to Equal Opportunity and Disability Commission by Resolution No. 98-134; and

WHEREAS, with the creation of the Diversity, Equity, and Inclusion Program which includes Equal Opportunity and Disability accessibility; and

WHEREAS, City staff retitled and repurposed the Equal Opportunity/Disability Commission to the Equity Commission and amended Article II Duties by Resolution No. 2022-054; and

WHEREAS, the Equity Commission is established to advise on matters of diversity, equity, and inclusion; and

WHEREAS, the Appointments Committee met on September 15, 2022 and recommended the appointments of Kwei-Cee Chu, Lindsey Bird, and Fallon Ferris to the Equity Commission.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the appointments of Kwei-Cee Chu, Lindsey Bird, and Fallon Ferris as commission members to the Equity Commission for a four-year term, with an expiration date of October 1, 2026.

BE IT FURTHER RESOLVED, that the City Clerk is hereby directed to transmit a copy of this resolution to the appointed members of the Equity Commission, and secretary thereof.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 11th day of October, 2022, by Councilmember Escutia-Braaton, who moved its adoption, which motion being duly seconded by Mayor Zwahlen, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Escutia-Braaton, Kenoyer, Madrigal, Ricci, Wright, Mayor Zwahlen

NOES: Councilmembers: None

ABSENT: Councilmembers: None

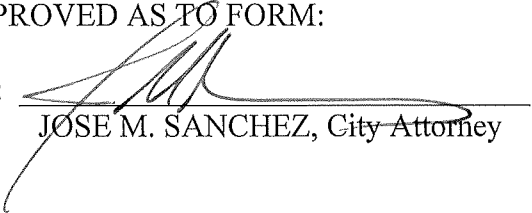
ATTEST:

  
DIANE NAYARES-PERBEZ, CMC,  
City Clerk

(SEAL)

APPROVED AS TO FORM:

BY:

  
JOSE M. SANCHEZ, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2022-410**

**RESOLUTION APPROVING THE APPOINTMENTS OF HAMZA MODAN, AMEENA PIERSTORFF, AHELI PATEL, JOSSFIN GARZA, NOAH WONG, KAYVON BANANKHAH, LOLAMAYA EVANS, ABIGAIL MANZANO, AND CARISSA NIELSON TO THE CITY OF MODESTO YOUTH COMMISSION FOR THE 2022-2023 SCHOOL YEAR FROM OCTOBER 12, 2022 TO JUNE 30, 2023**

WHEREAS, on June 28, 2022, by Resolution No. 2022-290, Council reestablished the City of Modesto Youth Commission (“Youth Commission”) and adopted bylaws to provide opportunities for young people to participate actively in governmental processes, and

WHEREAS, the Youth Commission shall serve in an advisory capacity to the City Council and the City Manager in matters pertaining to youth, and to initiatives, policies, and programs impact youth; and

WHEREAS, Section 1102 of the Charter of the City of Modesto authorizes the City Council to appoint members to various Boards, Commissions, and Committees with the recommendation of the City’s Appointments Committee; and

WHEREAS, the Youth Commission shall be comprised of nine (9) members who live within the boundaries of the City of Modesto and are enrolled full-time in high school; and

WHEREAS, members are appointed for a one year term coinciding with the school year (October through June); and

WHEREAS, the Appointments Committee met on September 15, 2022 and recommended the appointments of Hamza Modan, Ameena Pierstorff, Aheli Patel, Jossfin Garza, Noah Wong, Kayvon Banankhah, Lolamaya Evans, Abigail Manzano, and

Carissa Nielson to the City of Modesto Youth Commission for the 2022-2023 school year from October 12, 2022 to June 30, 2023.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the appointments of Hamza Modan, Ameena Pierstorff, Aheli Patel, Jossfin Garza, Noah Wong, Kayvon Banankhah, Lolamaya Evans, Abigail Manzano, and Carissa Nielson to the City of Modesto Youth Commission for the 2022-2023 school year from October 12, 2022 to June 30, 2023.


BE IT FURTHER RESOLVED that the City Clerk is hereby directed to transmit a copy of this resolution to the 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 11th day of October, 2022, by Vice Mayor Wright, who moved its adoption, which motion being duly seconded by Councilmember Kenoyer, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Escutia-Braaton, Kenoyer, Madrigal, Ricci, Wright, Mayor Zwahlen

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST:   
DIANE NAYARES-PEREZ, CMC,  
City Clerk

(SEAL)

APPROVED AS TO FORM:

BY:   
JOSE M. SANCHEZ, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2022-411**

**RESOLUTION APPROVING THE AMENDED CONFLICT OF INTEREST  
CODE FOR THE CITY OF MODESTO, AND RESCINDING RESOLUTION NO.  
2020-362**

WHEREAS, pursuant to Government Code Section 87300, every local agency must adopt a Conflict of Interest Code; and

WHEREAS, the City Clerk is authorized to maintain a current list of the City agencies/departments which have adopted a Conflict of Interest Code; and

WHEREAS, the Political Reform act requires every local government agency to review its Conflict of Interest Code on a biennial basis to determine if it is accurate or, alternatively, the need for amendment; and

WHEREAS, pursuant to Government Code Section 82011, the Council is the Conflict of Interest Code reviewing body for agencies, boards, and commissions of the City of Modesto.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the amended 2022 Conflict of Interest Code for the City of Modesto.


BE IT FURTHER RESOLVED that Resolution No. 2020-362, adopted by the City Council 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 October, 2022, by Vice Mayor Wright, who moved its adoption, which motion being duly seconded by Councilmember Kenoyer, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Escutia-Braaton, Kenoyer, Madrigal, Ricci, Wright, Mayor Zwahlen

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST:   
DIANE NAYARES-PÉREZ, CMC,  
City Clerk

(SEAL)

APPROVED AS TO FORM:

BY:   
JOSE M. SÁNCHEZ, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2022-412**

**RESOLUTION CONTINUING TO AUTHORIZE REMOTE  
TELECONFERENCE MEETINGS OF THE CITY OF MODESTO PURSUANT  
TO ASSEMBLY BILL 361**

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

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

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

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

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

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

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

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

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

WHEREAS, on September 28, 2021, the City Council adopted Resolution No. 2021-370 authorizing remote teleconference meetings pursuant to AB361 (Government Code section 54953(e)); and

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

WHEREAS, the City Council has considered the circumstances of the Governor’s state of emergency proclamation pursuant to Government Code section 8625, which remains active; and

WHEREAS, on March 8, 2022, the County of Stanislaus Board of Supervisors terminated the Declaration of a Local Health Emergency that was issued on March 11, 2020; and

WHEREAS, the Stanislaus County Public Health Services Agency still strongly recommends community members to wear a mask while in “any indoor public space” along with other recommendations intended to promote social distancing measures; and

WHEREAS, the City Council, acting for itself and for the benefit of all of the City’s commissions, committees, and other bodies (collectively referred to as the “Legislative Bodies”), does hereby find that the Legislative Bodies shall continue to conduct their meetings without compliance with Government Code section 54953(b)(3), as authorized by Government Code section 54953(e), and that the Legislative Bodies shall continue to comply with the requirements to provide the public with access to the meetings as prescribed in Government Code section 54953(e)(2) as a consequence of the ongoing state of emergency and the continued social distancing measures required by local officials.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF MODESTO DOES HEREBY RESOLVE AS FOLLOWS:

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

Section 2. Consideration of State of Emergency. The City Council has considered the conditions of the state of emergency declared pursuant to Government Code section 8625, and determined that such emergency conditions continue to be present in the City.

Section 3. Continued Social Distancing Measures by State and Local Officials.

The City Council finds that the County of Stanislaus Health Officer's recommended measures to promote social distancing remain in effect.

Section 4. Remote Teleconference Meetings. The City Council finds that the conditions continue to exist pursuant to Government Code section 54953(e)(3) to allow Legislative Bodies to use teleconferencing to hold public meetings in accordance with Government Code section 54953(e)(2) to ensure members of the public have continued access to safely observe and participate in local government meetings.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 11th day of October, 2022, by Vice Mayor Wright, who moved its adoption, which motion being duly seconded by Councilmember Kenoyer, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Escutia-Braaton, Kenoyer, Madrigal, Ricci,  
Wright, Mayor Zwahlen

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST:   
DIANE NAYARES-PEREZ, CMC,  
City Clerk

(SEAL)

APPROVED AS TO FORM:

BY:   
JOSE M. SANCHEZ, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2022-413**

**RESOLUTION AMENDING THE FISCAL YEAR 2022-23 ANNUAL  
OPERATING AND CAPITAL IMPROVEMENT FUND BUDGETS AND  
AUTHORIZING THE CITY MANAGER, TO MAKE THE NECESSARY STEPS  
TO IMPLEMENT THE PROVISIONS OF THIS RESOLUTION**

WHEREAS, a financial analysis has been completed and it has been determined that a budget adjustment is required to the Annual and Capital Improvement Budgets of the City of Modesto for Fiscal Year 2022-23.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves amending the Fiscal Year 2022-23 Annual Operating and Capital Improvement budget as shown in **Exhibit A**, which is **attached** hereto and incorporated by reference herein.

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 11th day of October, 2022, by Vice Mayor Wright, who moved its adoption, which motion being duly seconded by Councilmember Kenoyer, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Escutia-Braaton, Kenoyer, Madrigal, Ricci, Wright, Mayor Zwahlen

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST:   
DIANE NAYARES-PEREZ, CMC,  
City Clerk

(SEAL)

APPROVED AS TO FORM:

BY:   
JOSE M. SANCHEZ, City Attorney

**FISCAL YEAR 2022-23**

**COMMUNITY AND ECONOMIC DEVELOPMENT**

- A budget adjustment in the amount of \$100,000 necessary in the Capital Grants – Streets CIP Projects Fund 3160 for Project 101269 – Pelandale Ave. Rehabilitation. The project was recently approved for an Amendment Modification Summary E-76 by the Department of Transportation (CalTrans) on August 22, 2022 which awarded additional funding. As a result, the projects revenue and expense budget are being increased. There are no local match funds for the project.
- A budget adjustment in the amount of \$2,814,603 necessary in the Capital Grants – Streets CIP Projects Fund 3160 for Project 101271 – Briggsmore/SR-99 Interchange. The project was recently approved for an Amendment Modification Summary E-76 by the Department of Transportation (CalTrans) on May 24, 2022 and then again on August 11, 2022 which awarded additional funding. As a result, the projects revenue and expense budget are being increased. The project is also funded with Regional Measure L funds.
- A budget adjustment in the amount of \$1,200,000 necessary in the Capital Grants – Streets CIP Projects Fund 3160 for Project 101063 – Pelandale Ave. Interchange – Phase 2. The project was recently approved for an Amendment Modification Summary E-76 by the Department of Transportation (CalTrans) on September 8, 2022 which awarded additional funding. As a result, the projects revenue and expense budget are being increased. The project is also funded with State Improvement Program grant funds and local Streets Capital Facility Fee funds.

**COMMUNITY AND ECONOMIC DEVELOPMENT – MEASURE L**

- A budget adjustment is necessary to allocate higher than anticipated revenues to various Measure L projects. The total amount of the adjustment is \$5,917,140. Each project will have an increase in the transfer out from Fund 1410 – Measure L Local Road Tax to the project and an increase to the projects discretionary expense accounts. Below is the adjustment to each project.

<b>Project Number</b>	<b>Project Name</b>	<b>Amount for Adjustment</b>
<b>Local Streets and Roads Category</b>		
101042	Paradise Road ATP III	\$2,000,000
101157	Tuolumne Blvd. Pavement Rehab	\$2,502,283
<b>Traffic Management Category</b>		
101157	Tuolumne Blvd. Pavement Rehab	\$1,023,610
101066	New Signal Oakdale/Claratina	\$110,000
<b>Bike and Pedestrian Category</b>		
101042	Paradise Road ATP III	\$281,247
<b>Total Increase to Projects</b>		<b>\$5,917,140</b>
<b>Total Transfer Out from Fund 1410</b>		<b>\$5,917,140</b>

## **INFORMATION TECHNOLOGY**

- A budget adjustment in the amount of \$65,913 is needed in the Public Educational Government (PEG) Fund 1321 for the City's portion of the 10<sup>th</sup> Street Place Closed Captioning Upgrade Project. The project is being equally funded by the City and Stanislaus County and was approved by the 10<sup>th</sup> Street Place Joint Powers Agency Commission on August 29, 2022 with a total project amount of \$131,825. The increase in budget will be covered by the current Fund 1321 reserves.

## **PUBLIC WORKS**

- A budget adjustment in the amount of \$1,178,420 is necessary in the Capital Grants – Streets CIP Projects Fund 3160 for Project 101186 – Upgrade Traffic Signals 2019. The project was recently approved for an Amendment Modification Summary E-76 by the Department of Transportation (CalTrans) on August 18, 2022 which awarded additional funding. As a result, the projects revenue and expense budget are being increased. There are no local match funds for the project.
- A budget adjustment in the amount of \$150,000 necessary in the Capital Grants – Streets CIP Projects Fund 3160 for Project 101066 – New Signal Oakdale/Claratina. The project was recently approved for an Amendment Modification Summary E-76 by the Department of Transportation (CalTrans) on August 24, 2022 which awarded additional funding. As a result, the projects revenue and expense budget are being increased. The project is also funded with Local Measure L funds.
- A budget adjustment in the amount of \$769,000 is needed in the Surface Transportation Fund (1700) to increase the Upgrade High Voltage FY 20/21 Project (101304) expense budget. Additionally, a transfer out from the Gas Tax Fund (1730) to the project is needed in the amount of \$769,000. This project will continue to upgrade the High Voltage Circuits within the City. City Council per resolution 2019-91 recommended the approach to replace 150 high voltage street lights each year at an estimated cost of \$1,000,000. This adjustment is accounting for the anticipated replacement expenses for high voltage for fiscal year 2022-2023 which was not included as part of budget adoption. If the additional \$231,000 is needed, staff will bring back another request to Council to amend the budget.
- A budget adjustment in the amount of \$240,000 is necessary in the Capital Grants – Streets CIP Projects Fund 3160 for Project 100968 – Upgrade Traffic Signals 2017. The project was recently approved for an Amendment Modification Summary E-76 by the Department of Transportation (CalTrans) on September 1, 2022 which awarded additional funding. As a result, the projects revenue and expense budget are being increased. There are no local match funds for the project.
- A budget adjustment in the amount of \$557,420 is needed to appropriate revenue and expenses related to the CALFIRE Urban and Community Forestry California Climate Investments (CCI) Grant Program as well as additional Modesto in-kind expenses in the amount of \$186,033 (Fund 1341, Project 101440). The grant was approved by Council on April 12th, 2022 via resolution 2022-185 and this adjustment will ensure the budget appropriation is in place to expend the funds.

- A budget adjustment in the amount of \$1,854,073 is necessary in the Compost SB 1383 CIP Fund 4896. Senate Bill (SB) 1383 requires that waste management jurisdictions enact and enforce a series of processes and programs designed to limit organic waste to landfill. Due to collection, sorting, and program changes, the City's Compost Facility becomes a critical part of local waste management, providing a destination for organic waste diverted from land fill and a means for Modesto to meet diversion and procurement targets set by CalRecycle. The City's Compost Facility is not currently capable of meeting the demands of more organic waste and the requirement of no more than 1% contamination. Equipment upgrades and replacements and facility improvements are needed to comply with SB1383.

Under Resolution 2022-276 City Council approved a \$1.70 fee monthly on residential solid waste accounts and \$3.08 monthly based on yardage and frequency of service on commercial accounts. This fee accounts for an anticipated \$1,211,005 revenue from residential accounts and \$643,068 from commercial accounts, for a total of \$1,854,073.

in FY22/23 the Compost Facility will hire a consultant to provide a feasibility study, which will evaluate the needs for facility, especially in regards to regulations, equipment, general facility improvements, and planning for short-and long-term growth. Following recommendations from the feasibility study, an engineering consultant will be hired to work on the suggested improvements. Based on similar compost capital improvement projects, the anticipated cost is \$25 million, with \$1.5 million in equipment purchases and consulting allocated this fiscal year. These account for the allocations to Professional Services and Tools and Equipment accounts.

- A budget adjustment in the amount of \$1,144,671 is necessary to increase the budget for increased revenue and to budget additional expenses for programs required under SB 1383. Senate Bill (SB) 1383 requires that waste management jurisdictions enact and enforce a series of processes and programs designed to limit organic waste to landfill. These include:
  - Collection and sorting methodology that divert organic waste and recyclable material from landfill
  - Inspections and enforcement of waste containers and sorting
  - Food recovery programs and monitoring
  - Outreach and education on SB1383, associated waste management changes, and new programs or requirements

An SB 1383 implementation fee was added to the City of Modesto's solid waste collection rate under Resolution 2022 276 for \$1.05 monthly on residential accounts and \$1.90 monthly based on yardage and frequency of service on commercial accounts. This fee accounts for an anticipated \$747,974 revenue from residential accounts and \$396,697 from commercial accounts. This total additional revenue, \$1,144,671, will fund the above programs and processes.

The accounts on the table will have additional expenses for the programs required under SB 1383:

Account String	Account Name	Adjustment Amount	Justification/Description
4891-56010-51040	Salaries and Wages - Part-time	\$30,000	2 MW to conduct inspections
4891-56010-51200	Overtime	\$7,000	Public Ed/Outreach programs in evenings and weekends
4891-56010-52010	Office Supplies	\$6,500	Increased cost of recycled office supplies, increased code enforcement notices, install new work stations for additional employees and fellows
4891-56010-52160	Personal Protection Equipment	\$2,000	PPE for new employees and fellows
4891-56010-52300	Tools and Field Supplies <\$5,000	\$1,700	Boots and field supplies for new employees and fellows
4891-56010-53025	Training Expenses	\$400	Training for new employees
4891-56010-53030	Business Expenses	\$15,000	Mileage expenses for 4 fellows to conduct ed/outreach programs
4891-56010-53047	Phone Expenses	\$300	Office phones for new employees and fellows
4891-56010-53048	Cell Phone Utility Expenses	\$2,400	Cell phones and/or mobile hotspots for new employees and fellows
4891-56010-53170	Laundry and Cleaning	\$800	Uniforms for 2 MWs
4891-56010-53175	Advertising	\$85,000	Public Ed/Outreach campaign for new containers, collection/sorting, food recovery, enforcement programs
4891-56010-53176	Promotion Expense	\$80,000	Outreach material, including small kitchen scrap buckets for compost
4891-56010-53300	Professional Services	\$155,000	Forms, brochures, printing for compliance programs, including bill inserts, magnets with collection calendars; creation of outreach campaigns, including

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2022-414**

**RESOLUTION APPROVING A FIFTH AMENDMENT TO THE AGREEMENT WITH CALIFORNIA PROPERTY SPECIALISTS, INC., DBA CPSI, NOW KNOWN AS INTERWEST CONSULTING GROUP, INC., FOR ADDITIONAL RIGHT-OF-WAY SERVICES FOR THE STATE ROUTE 132 WEST FREEWAY/EXPRESSWAY - PHASE 1 PROJECT, INCREASING THE AGREEMENT AMOUNT BY \$177,425, PLUS \$44,356 ADDITIONAL SERVICES, IF NEEDED, FOR A TOTAL INCREASE OF \$221,781 FROM \$3,737,413 FOR A TOTAL AMOUNT NOT TO EXCEED \$3,959,194, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE TO EXECUTE THE FIFTH AMENDMENT TO AGREEMENT**

WHEREAS, the purpose of the State Route 132 West Freeway/Expressway - Phase 1 Project is to improve regional and interregional circulation, relieve traffic congestion along existing State Route 132, and enhance safety and operations for the existing and proposed transportation network; and

WHEREAS, on August 8, 2017, by Resolution No. 2017-314, the City Council approved an agreement with Property Specialists, Inc., (dba CPSI) to perform right-of-way consultant services for the Project in an amount of \$735,000, plus \$73,500 additional services, for a total contract amount of \$808,500; and

WHEREAS, on February 27, 2018, by Resolution No. 2018-84, the City Council approved the First Amendment to the CPSI Agreement to increase the contract by \$864,687, plus \$86,500 for additional services, for a total contract amount of \$1,759,687; and

WHEREAS, on November 27, 2018, by Resolution No. 2018-528, Council approved the Second Amendment to the CPSI Agreement to increase the contract by \$1,356,773, plus \$135,677 for additional services, for a total contract amount of \$3,252,137; and

WHEREAS, on June 23, 2020, by Resolution No. 2020-260, Council approved the Third Amendment to the CPSI/Interwest Agreement to increase the contract by \$246,160, plus \$24,616 for additional services, for a total contract amount of \$3,522,912; and

WHEREAS, on May 25, 2021, by Resolution No 2021-183, Council approved the Fourth Amendment to the CPSI/Interwest Agreement to increase the contract by \$195,000, plus \$19,500 for additional services, for a total contract amount of \$3,737,413; and

WHEREAS, through the course of project construction, additional right-of-way service work has been required to support construction; and

WHEREAS, there is a need for continued support of complex business relocation cases, and continued environmental compliance monitoring and funding conformity matters requested by Caltrans in order to receive full reimbursement of the grant funds obtained for the project; and

WHEREAS, this Fifth Amendment is required to complete the activities previously authorized by Council and to close out the project right-of-way services contract; and

WHEREAS, many of the tasks include specialized work that must be completed by subconsultants with specialized expertise; and

WHEREAS, approximately 37 percent of this total work requested in the Fifth Amendment is necessary to support consultant services for continued environmental compliance monitoring required by Caltrans, as described in the **attached** agreement and scope of services and are typical for large highway projects; and

WHEREAS, on September 1, 2022, Interwest Consulting Group submitted a Fifth Amendment Request to the Agreement in the amount of \$177,425, plus \$44,356 for additional services, if needed, for a total amount not to exceed \$221,781; and

WHEREAS, Staff recommends approving the Fifth Amendment to the Agreement with Interwest Consulting Group, Inc. to complete the scope of right-of-way services for the Project.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the Fifth Amendment to the agreement with Property Specialists, Inc. (dba CPSI), now known as Interwest Consulting Group, Inc. for additional right of way services for the State Route 132 West Freeway/Expressway - Phase 1 Project in the amount of \$177,425, plus \$44,356 for additional services (if needed), for a total increase of \$221,781 from \$3,737,413 for a total not to exceed amount of \$3,959,194.

BE IT FURTHER RESOLVED, that the City Manager, or his designee, is authorized to execute the Fifth Amendment to the Agreement in a form approved by the City Attorney.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 11th day of October, 2022, by Vice Mayor Wright, who moved its adoption, which motion being duly seconded by Councilmember Kenoyer, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Escutia-Braaton, Kenoyer, Madrigal, Ricci,  
Wright, Mayor Zwahlen

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST:   
DIANE NAYARES-PEREZ, CMC,  
City Clerk

(SEAL)

APPROVED AS TO FORM:

BY:   
JOSE M. SANCHEZ, City Attorney

**FIFTH AMENDMENT TO AGREEMENT FOR CONSULTANT SERVICES FOR  
STATE ROUTE 132 WEST FREEWAY/EXPRESSWAY PHASE 1 PROJECT**

This Fifth Amendment to Agreement for Consultant Services is made with reference to the contractual agreement between the CITY OF MODESTO (“City”) and PROPERTY SPECIALISTS, INC., dba CPSI, a California corporation, now known as INTERWEST CONSULTING GROUP, INC., a Colorado corporation, (“Consultant”), entered into by the parties on the 8th day of August, 2017, hereinafter referred to as “Original Agreement”.

This Fifth Amendment to the Original Agreement for Consultant Services is made with regard to the following recitals:

A. On the 27<sup>th</sup> of February, 2018, the parties entered into a First Amendment to the Agreement for Consultant Services (“First Amendment”).

B. On the 27<sup>th</sup> of November, 2018, the parties entered into a Second Amendment to the Agreement for Consultant Services (“Second Amendment”).

C. On the 23<sup>rd</sup> of June, 2020, the parties entered into a Third Amendment to the Agreement for Consultant Services (“Third Amendment”).

D. On the 25<sup>th</sup> of May, 2021, the parties entered into a Fourth Amendment to the Agreement for Consultant Services (“Fourth Amendment”).

E. Paragraph no. 9 “**AMENDMENTS**” of the Original Agreement acknowledges the parties understand it may become desirable or necessary for City or Consultant to modify the scope of services provided for under the Agreement and any such modification must be in writing signed by both parties.

F. Paragraph no. 3 “**COMPENSATION**” of the Original Agreement specifies the sum of **\$735,000** as the total compensation Consultant agrees to accept for performing all

services and furnishing all staffing and materials for the project as well as performance by Consultant of all of its duties and obligations required in the Original Agreement.

G. The Parties agreed to additional services with respect to the Original Agreement in the total amount of **\$73,500**.

H. Paragraph no. 2 “**COMPENSATION**” of the First Amendment specified that additional services will be performed by Consultant, which increased the total amount of the Original Agreement by **\$864,687**, for a new total amount not to exceed **\$1,759,687**.

I. The Parties agreed to additional services with respect to the Original Agreement and First Amendment in the total amount of **\$86,500**.

J. Paragraph no. 3 “**COMPENSATION**” of the Second Amendment specified that additional services will be performed by Consultant, which increased the total amount of the Original Agreement by **\$1,356,773**, for a new total amount not to exceed **\$3,252,137**.

K. The Parties agreed to additional services with respect to the Original Agreement and Second Amendment in the total amount of **\$135,677**.

L. Paragraph no. 3 “**COMPENSATION**” of the Third Amendment specified that additional services will be performed by Consultant, which increased the total amount of the Original Agreement by **\$246,159.50**, for a new total amount not to exceed **\$3,522,912.45**.

M. The Parties agreed to additional services with respect to the Third Amendment in the total amount of **\$24,615.95**.

N. Paragraph no. 3 “**COMPENSATION**” of the Fourth Amendment specified that additional services will be performed by Consultant, which increased the total amount of the Original Agreement by **\$195,000.40**, for a new total amount not to exceed **\$3,737,412.89**.

O. The Parties agreed to additional services with respect to the Fourth Amendment in the total amount of **\$19,500.04**.

P. On or about September 1, 2022, Consultant submitted to the City a budget augmentation for additional tasks requested by the City to be added to the Original Agreement, First Amendment, Second Amendment, Third Amendment, and Fourth Amendment related to the State Route 132 West Freeway/Expressway Phase I Project, attached hereto as Exhibit “A-5” and incorporated herein by this reference. Exhibit “A-5” identifies those additional tasks to be performed by Consultant as well as Consultant’s costs for the below-described additional tasks:

1. Mitchell - Signature and Escrow: **\$3,666.88**
2. Wagner - Signature and Escrow: **\$6,076.48**
3. Gonzalez - Purchase Landlocked Parcel: **\$18,696.00**
4. Borba - Surplus Sale: **\$28,203.20**
5. Bender - Surplus Sale: **\$26,029.20**
6. MID Access Road - Faria: **\$4,516.88**
7. MID Access Road - Wagner: **\$4,516.88**
8. MID Access Road - Renna: **\$20,336.72**
9. MID Access Road Rincon Environmental: **\$35,000.00**
10. RAP Reimbursement: **\$20,744.00**
11. TCE removal upon request of Property Owners: **\$9,638.40**

Q. The aforementioned additional tasks increase the total compensation amount of the Original Agreement, and as amended by the First Amendment, the Second Amendment, the Third Amendment, and the Fourth Amendment by **\$177,424.64**.

R. The parties to this Fifth Amendment to the Original Agreement now understand and agree that it is necessary to modify paragraph no. 1 entitled “**SCOPE OF SERVICES**” of the Original Agreement, as amended.

S. The parties to this Fifth Amendment to Agreement now understand and agree it is necessary to modify paragraph no. 3 entitled “**COMPENSATION**” of the Original Agreement, as amended.

**NOW, THEREFORE**, in consideration of this Fifth Amendment to the Original Agreement, and the mutual promises, covenants, and stipulations contained in the Original Agreement, the First Amendment, the Second Amendment, the Third Amendment, the Fourth Amendment, and this Fifth Amendment to the Original Agreement, the parties agree as follows:

1. The parties agree that each of the recitals set out above is factually true and correct.
2. Paragraph no. 1 entitled “**SCOPE OF SERVICES**” of the Original Agreement, including any amendments pertaining thereto, shall be deleted and parties agree to and hereby do substitute the following in its place:

**“1. SCOPE OF SERVICES.**

Consultant shall undertake and complete the preparation of the scope of work as set forth and described in the documents attached to the Original Agreement and referred to therein as Exhibit “B”. In addition, Consultant shall undertake and complete the preparation of the scope of work as set forth and described in the Attachments to the First Amendment, and as set forth and described in the Attachments to the Second Amendment, and as set forth and described in the Attachments to the Third

Amendment, and as set forth and described in the Attachments to the Fourth Amendment, and as set forth in Exhibit “A-5” attached to this Fifth Amendment to the Original Agreement for Consultant Services. Exhibit “A-5” is incorporated herein by this reference. The Consultant shall perform all services as required in a manner compatible with the standards of its profession and shall produce a fully complete project acceptable to City.”

3. Paragraph no. 3 entitled “**COMPENSATION**” of the Original Agreement between the parties shall be deleted and the parties agree to and hereby do substitute the following in its place:

**“3. COMPENSATION.**

Consultant agrees to perform the work on a time and materials basis in an amount not to exceed **THREE MILLION NINE HUNDRED FOURTEEN THOUSAND EIGHT HUNDRED THIRTY-SEVEN AND 53/100 DOLLARS (\$3,914,837.53)** as full remuneration for performing all services and furnishing staffing and materials called for in Exhibit “C” to the Original Agreement, as amended by Attachment “A” (“CPSI – Amended Fee Proposal Worksheet”) to the First Amendment, and Exhibit “A-2” attached to the Second Amendment to Agreement, and Exhibit “A-3” attached to the Third Amendment to Agreement, and Exhibit “A-4” attached to this Fourth Amendment to Agreement, and Exhibit “A-5” attached to this Fifth Amendment to Agreement.

The compensation shall be paid pursuant to and in the manner and at the time set forth below:

Professional services received by the City under the Original Agreement, the First Amendment, the Second Amendment, the Third Amendment, the Fourth Amendment, and this Fifth Amendment to Agreement shall be paid for on a time and materials basis with a not to exceed amount, as called for in Exhibit "C" to the Original Agreement, as amended by Attachment "A" of the First Amendment, and Exhibit "A-2" of the Second Amendment to Agreement, and Exhibit "A-3" of the Third Amendment to Agreement, and Exhibit "A-4" of this Fourth Amendment to Agreement, and Exhibit "A-5" attached to this Fifth Amendment to Agreement. Consultant shall prepare and City agrees to pay Consultant on a time and materials basis for monthly invoices, which include detailed tasks, hours worked, and billable rates for work completed.

Additional services may be authorized by the City Manager in an amount up to, but not to exceed **FORTY-FOUR THOUSAND THREE HUNDRED FIFTY-SIX AND 16/100 DOLLARS (\$44,356.16)**. In the event that additional services are deemed necessary, the Consultant shall provide a written request to the City Manager indicating the reason for additional work, scope and cost of such work. The City Manager shall provide a written response to the request, either approving or denying the additional expenditure, in whole or in part. If additional services are requested and approved, they will be billed at the hourly rates set forth in

Exhibit “A-5” and may not exceed the amount requested and approved in writing by the City Manager. In that event, the new total compensation shall not exceed **THREE MILLION NINE HUNDRED FIFTY-NINE THOUSAND ONE HUNDRED NINETY-THREE AND 69/100 DOLLARS (\$3,959,193.69)**.

If additional services in excess of this amount are deemed necessary by City Staff, a sixth amendment to the Original Agreement will be required and must be approved by the City Council prior to commencing the work, as provided in Paragraph 9 of the Original Agreement.”

4. Except as herein amended or modified, the provisions of the Original Agreement, First Amendment, Second Amendment, Third Amendment, and Fourth Amendment are expressly reaffirmed and remain in full force and effect.

IN WITNESS WHEREOF, the City of Modesto, a municipal corporation, has authorized the execution of this Fifth Amendment to Agreement for Consultant Services in duplicate by its City Manager and attestation by its City Clerk under authority of Resolution No. 2022-\_\_\_\_\_, adopted by the Council of the City of Modesto on the 11th day of October, 2022, and INTERWEST CONSULTING GROUP, INC. has caused this Fifth Amendment to Agreement to be duly executed in duplicate.

(Signatures on next page)

*9/12/2022 Approved as to form PH*

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2022-415**

**RESOLUTION APPROVING AN AGREEMENT WITH THE STATE OF CALIFORNIA OFFICE OF EMERGENCY SERVICES, TO TEMPORARILY HOUSE AND MAINTAIN A TYPE 6 FIRE ENGINE AND ITS ASSOCIATED EQUIPMENT AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE TO EXECUTE THE AGREEMENT**

WHEREAS, the California Governor's Office of Emergency Services (CalOES) has selected the Modesto Fire Department (MFD) to house and maintain a Type 6 fire engine, complete with equipment; and

WHEREAS, the use of the vehicle is intended to provide aid for the following all-hazard events, emergency incidents, civil defense, and disaster purposes: mutual aid; multiple alarm events and emergency incidents; emergency incidents threatening properties vital to national defense or important military installations; parades and displays; training of regular, volunteer and auxiliary firefighters; temporary standby for MFD's regular fire engine and the regular fire engines of other fire departments while out of service for repairs; and

WHEREAS, the term of the agreement is for ten years, from October 30, 2022, through October 30, 2032; and

WHEREAS, if MFD enters into the agreement with CalOES, it would require MFD to house, maintain and respond with the apparatus when requested; and

WHEREAS, maintenance would include: care of batteries, tires, appliances, lubrication, fuel, general cleaning and minor repairs. Repairs that are \$100 or less are the responsibility of the City of Modesto. Repairs that exceed \$100 are the responsibility of CalOES on a \$100.00 deductible basis; and

WHEREAS, it is expected that MFD shall be available at all times, for a minimum of seven days, to staff and operate the fire engine, with staffing consisting of three trained fire personnel for out of operational area assignments.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves an agreement with the State of California Office of Emergency Services, to temporarily house and maintain a Type 6 fire engine and its associated equipment


BE IT FURTHER RESOLVED that the City Manager or designee is hereby authorized to execute the agreement, in a form approved by the City Attorney.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 11th day of October, 2022, by Vice Mayor Wright, who moved its adoption, which motion being duly seconded by Councilmember Kenoyer, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Escutia-Braaton, Kenoyer, Madrigal, Ricci, Wright, Mayor Zwahlen

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST:   
DIANE NAYARES-PÉREZ, CMC,  
City Clerk

(SEAL)

APPROVED AS TO FORM:

BY:   
JOSE M. SANCHEZ, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2022-416**

**RESOLUTION APPROVING A ONE-TIME PURCHASE WITH WATSON FURNITURE GROUP, BY UTILIZING THE COMPETITIVE BID PROCESS FROM THE HOUSTON-GALVESTON AREA COUNCIL (H-GAC), FOR THE PURCHASE AND INSTALLATION OF REAL TIME CRIME CENTER (RTCC) WORKSTATION FURNITURE, EQUIPMENT, MATERIALS AND LABOR FOR AN ESTIMATED COST NOT TO EXCEED \$62,627; AND AUTHORIZING THE PURCHASING MANAGER, OR HER DESIGNEE, TO ISSUE THE PURCHASE ORDER**

WHEREAS, on May 12, 2020, the City Council approved, by Resolution No. 2020-226, for the Modesto Police Department to apply for the Coronavirus Emergency Supplemental Funding (CESF) Program of the Bureau of Justice Assistance (BJA) of the U.S. Department of Justice; and

WHEREAS, the Modesto Police Department was subsequently awarded \$468,128 on May 29, 2020; and

WHEREAS, one of the funding allocations was the purchase of workstations for the RTCC to better facilitate the staffing in the RTCC and to assist with the continuing efforts to limit person-to-person contact and increase the capacity to take telephone and online reports for calls that do not require an officer to respond; and

WHEREAS, in order to meet the needs of the department, Police Department and Purchasing Division staff sought to leverage an industry leader in public safety workstations; and

WHEREAS, the vendor identified by those with knowledge of public safety workstation providers was Watson Furniture Group; and

WHEREAS, in addition to being an industry leader, Watson Furniture Group also has a Houston-Galveston Area Council (H-GAC) contract which has been vetted by the Purchasing Division of the Finance Department; and

WHEREAS, Modesto Municipal Code (MMC) Section 8-3.2036 generally requires all purchases, which meet or exceed \$50,000 for material, equipment or contractual services to be formally bid; and

WHEREAS, however, exceptions to the formal bidding process are granted in MMC 8-3.204(d) “Where the Purchasing Manager, in his or her discretion, determines that a process other than the formal bid procedure set forth in Section 8-3.2036 will result in procurement for the City at the lowest possible cost commensurate with the desired quality”; and

WHEREAS, in addition, MMC 8-3.202(d) encourages the Purchasing Manager to join with the State of California and other units of government in cooperative purchasing plans when the best cost savings interest of the City would be served; and

WHEREAS, the quote from Watson Furniture group is for \$44,843 for parts and labor and the department seeks authorization for up to the grant award amount for this expense category to allow for a contingency in an amount of \$17,784 for additional parts and labor that may be needed and that qualify as a grant expense.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves a one-time purchase with Watson Furniture Group, by utilizing the competitive bid process from the Houston-Galveston Area Council (H-GAC), for the purchase and installation of Real Time Crime Center (RTCC) workstation furniture, equipment, materials and labor for an estimated cost not to exceed \$62,627.

BE IT FURTHER RESOLVED, that the Purchasing Manager, or her designee, is hereby authorized to issue the purchase order.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 11th day of October, 2022, by Vice Mayor Wright, who moved its adoption, which motion being duly seconded by Councilmember Kenoyer, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Escutia-Braaton, Kenoyer, Madrigal, Ricci, Wright, Mayor Zwahlen

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST:   
DIANE NAYARES-PEREZ, CMC,  
City Clerk

(SEAL)

APPROVED AS TO FORM:

BY:   
JOSE M. SANCHEZ, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2022-417**

**RESOLUTION APPROVING THE PLANS AND SPECIFICATIONS FOR THE NEW TRAFFIC SIGNAL INSTALLATION OAKDALE ROAD AT CLARATINA AVENUE PROJECT, ACCEPTING THE BID, AND AWARDING A CONTRACT TO TIM PAXIN'S PACIFIC EXCAVATION, INC. DBA PACIFIC EXCAVATION OF ELK GROVE, CA, IN THE AMOUNT OF \$489,196, AND CHANGE ORDERS UP TO THE CUMULATIVE AMOUNT OF \$48,920 FOR A TOTAL AMOUNT NOT EXCEED \$538,116, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE AGREEMENT**

WHEREAS, plans and specifications have been prepared for the New Traffic Signal Installation Oakdale Road at Claratina Avenue project, and City staff recommends approval by the City Council; and

WHEREAS, the bids received for the New Traffic Signal Installation Oakdale Road at Claratina Avenue project, were publicly opened at 11:00 a.m. on August 30, 2022, and later tabulated by the Director of Public Works for the consideration of Council; and

WHEREAS, the Director of Public Works has recommended that the bid of \$489,196 received from Tim Paxin's Pacific Excavation, Inc. dba Pacific Excavation of Elk Grove, CA be accepted as the lowest responsible and responsive bid and that the contract be awarded to Tim Paxin's Pacific Excavation, Inc. dba Pacific Excavation; and

WHEREAS, Modesto Municipal Code Section 8-3.203 generally requires all purchases, which meet or exceed \$50,000 for material, equipment or contractual services, to follow the formal bid procedures; and

WHEREAS, an award of \$489,196 and agreement for construction for Public Works Department to use Tim Paxin's Pacific Excavation, Inc. dba Pacific Excavation of Elk Grove, CA, conforms to the Modesto Municipal Code because the City complied

with the formal bid procedures and Tim Paxin's Pacific Excavation, Inc. dba Pacific Excavation of Elk Grove, CA, was the lowest responsive bidder; and

WHEREAS, the City's "Change Order Approval Policy" enacted by Council Resolution No. 1994-443 on July 19, 1994, and updated by Resolution No. 2019-326 on July 9, 2019, established a contract change order budget of 10% for construction contracts at least \$250,000 but less than \$1,000,000.

NOW, THEREFORE BE IT RESOLVED, by the Council of the City of Modesto that it hereby approves the plans and specifications for the New Traffic Signal Installation Oakdale Road at Claratina Avenue project, accepts the bid from Tim Paxin's Pacific Excavation, Inc. dba Pacific Excavation of Elk Grove, CA in the amount of \$489,196, and change orders up to the cumulative amount of \$48,920 for a total amount not exceed \$538,116, and awards Tim Paxin's Pacific Excavation, Inc. dba Pacific Excavation the contract for the New Traffic Signal Installation Oakdale Road at Claratina Avenue project.

BE IT FURTHER RESOLVED, that the City Manager, or his designee, is hereby authorized to execute the contract, in a form approved by the City Attorney.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 11th day of October, 2022, by Vice Mayor Wright, who moved its adoption, which motion being duly seconded by Councilmember Kenoyer, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Escutia-Braaton, Kenoyer, Madrigal, Ricci, Wright, Mayor Zwahlen

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST:   
DIANE NAYARES-PEREZ, CMC,  
City Clerk

(SEAL)

APPROVED AS TO FORM:

BY:   
JOSE M. SANCHEZ, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2022-418**

**RESOLUTION APPROVING AN ON-CALL WATER RESOURCE GRANT RESEARCH AND WRITING CONSULTANT SERVICES AGREEMENT WITH PROVOST & PRITCHARD CONSULTING GROUP, MODESTO, CA, FOR A ONE-YEAR AGREEMENT WITH TWO ONE-YEAR EXTENSION OPTIONS, FOR AN ANNUAL COST NOT TO EXCEED \$150,000, AND A TOTAL NOT TO EXCEED \$450,000 OVER THREE YEARS; AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE AGREEMENT**

WHEREAS, the Utilities Department pursues grant funding opportunities for a variety of utility related projects and programs, primarily related to water, wastewater and storm drain collection system infrastructure, groundwater management activities, wastewater treatment plant facilities, recycled water facilities and flood management projects, and

WHEREAS, successful grant applications require thorough understanding of the funding program requirements, high quality product delivery, and credibility with the granting authorities, and

WHEREAS, retaining on-call consultants with specific experience in obtaining water resource related grants will allow the City to pursue a wider variety of grant opportunities which will assist in funding local and regional water resource related programs and projects, and

WHEREAS, in accordance with Modesto Municipal Code 8-3.204(a), Exceptions to Formal Bidding Requirements, this agreement for professional services is exempt from the bid requirement, and

WHEREAS, per Administrative Directive 3.1: Selection Procedures for Professional Consultants who Provide Architectural & Engineering Services for Capital

Projects, the Director at his direction, may secure a candidate firm if it is in the best interest of the City, and

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves an On-Call Agreement for Water Resource Grant Research and Writing Services with Provost & Pritchard Consulting Group, Modesto, CA, for one year with two one-year extension options, for an annual cost not to exceed \$150,000, and a total cost not to exceed \$450,000 over three years.


BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to execute the Agreement, in a form approved by the City Attorney.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 11th day of October, 2022, by Vice Mayor Wright, who moved its adoption, which motion being duly seconded by Councilmember Kenoyer, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Escutia-Braaton, Kenoyer, Madrigal, Ricci, Wright, Mayor Zwahlen

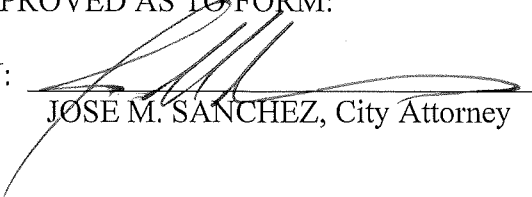
NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST:   
DIANE NAYARES-PEREZ, CMC,  
City Clerk

(SEAL)

APPROVED AS TO FORM:

BY:   
JOSE M. SANCHEZ, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2022-419**

**RESOLUTION APPROVING AN ON-CALL WATER RESOURCE GRANT RESEARCH AND WRITING CONSULTANT SERVICES AGREEMENT WITH WEST YOST ASSOCIATES, DAVIS, CA, FOR A ONE-YEAR AGREEMENT WITH TWO ONE-YEAR EXTENSION OPTIONS, FOR AN ANNUAL COST NOT TO EXCEED \$150,000, AND A TOTAL NOT TO EXCEED \$450,000 OVER THREE YEARS; AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE AGREEMENT**

WHEREAS, the Utilities Department pursues grant funding opportunities for a variety of utility related projects and programs, primarily related to water, wastewater and storm drain collection system infrastructure, groundwater management activities, wastewater treatment plant facilities, recycled water facilities and flood management projects, and

WHEREAS, successful grant applications require thorough understanding of the funding program requirements, high quality product delivery, and credibility with the granting authorities, and

WHEREAS, retaining on-call consultants with specific experience in obtaining water resource related grants will allow the City to pursue a wider variety of grant opportunities which will assist in funding local and regional water resource related programs and projects, and

WHEREAS, in accordance with Modesto Municipal Code 8-3.204(a), Exceptions to Formal Bidding Requirements, this agreement for professional services is exempt from the bid requirement, and

WHEREAS, per Administrative Directive 3.1: Selection Procedures for Professional Consultants who Provide Architectural & Engineering Services for Capital

Projects, the Director at his direction, may secure a candidate firm if it is in the best interest of the City, and

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves an On-Call Agreement for Water Resource Grant Research and Writing Services with West Yost Associates, Davis, CA, for one year with two one-year extension options, for an annual cost not to exceed \$150,000, and a total cost not to exceed \$450,000 over three years.

BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to execute the Agreement, in a form approved by the City Attorney.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 11th day of October, 2022, by Vice Mayor Wright, who moved its adoption, which motion being duly seconded by Councilmember Kenoyer, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Escutia-Braaton, Kenoyer, Madrigal, Ricci, Wright, Mayor Zwahlen

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST:   
DIANE NAYARES-PEREZ, CMC,  
City Clerk

(SEAL)

APPROVED AS TO FORM:

BY:   
JOSE M. SANCHEZ, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2022-420**

**RESOLUTION APPROVING AN ON-CALL WATER RESOURCE GRANT RESEARCH AND WRITING CONSULTANT SERVICES AGREEMENT WITH WOODARD & CURRAN, SACRAMENTO, CA, FOR A ONE-YEAR AGREEMENT WITH TWO ONE-YEAR EXTENSION OPTIONS, FOR AN ANNUAL COST NOT TO EXCEED \$150,000, AND A TOTAL NOT TO EXCEED \$450,000 OVER THREE YEARS; AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE AGREEMENT**

WHEREAS, the Utilities Department pursues grant funding opportunities for a variety of utility related projects and programs, primarily related to water, wastewater and storm drain collection system infrastructure, groundwater management activities, wastewater treatment plant facilities, recycled water facilities and flood management projects, and

WHEREAS, successful grant applications require thorough understanding of the funding program requirements, high quality product delivery, and credibility with the granting authorities, and

WHEREAS, retaining on-call consultants with specific experience in obtaining water resource related grants will allow the City to pursue a wider variety of grant opportunities which will assist in funding local and regional water resource related programs and projects, and

WHEREAS, in accordance with Modesto Municipal Code 8-3.204(a), Exceptions to Formal Bidding Requirements, this agreement for professional services is exempt from the bid requirement, and

WHEREAS, per Administrative Directive 3.1: Selection Procedures for Professional Consultants who Provide Architectural & Engineering Services for Capital

Projects, the Director at his direction, may secure a candidate firm if it is in the best interest of the City, and

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves an On-Call Agreement for Water Resource Grant Research and Writing Services with Woodard & Curran, Sacramento, CA, for one year with two one-year extension options, for an annual cost not to exceed \$150,000, and a total cost not to exceed \$450,000 over three years.

BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to execute the Agreement, in a form approved by the City Attorney.


The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 11th day of October, 2022, by Vice Mayor Wright, who moved its adoption, which motion being duly seconded by Councilmember Kenoyer, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Escutia-Braaton, Kenoyer, Madrigal, Ricci, Wright, Mayor Zwahlen

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST:

  
DIANE NAYARES-PEREZ, CMC,  
City Clerk

(SEAL)

APPROVED AS TO FORM:

BY:

  
JOSE M. SANCHEZ, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2022-421**

**RESOLUTION APPROVING THE APPOINTMENTS OF BRYAN MARKS AND  
FRANK PLOOF TO THE BLIGHT ABATEMENT ADVISORY COMMITTEE  
TO SERVE A FOUR- YEAR TERM BEGINNING NOVEMBER 1, 2022  
THROUGH OCTOBER 13, 2026**

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 Blight Abatement Advisory Committee is comprised of 7 members who are residents of the City of Modesto and 2 other members are residents of the County; and

WHEREAS, on September 15, 2022, the Appointments Committee recommended the following appointments; and

Candidate Name
Bryan Marks
Frank Ploof

WHEREAS, the terms will be for four years for each of the appointments beginning on November 1, 2022 through October 13, 2026; and

NOW, THEREFORE BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the appointments of Bryan Marks and Frank Ploof to the Blight Abatement Advisory Committee from November 1, 2022 through October 13, 2026.


BE IT FURTHER RESOLVED, that the City Clerk, or her designee, is directed to transmit a copy of this resolution to the appointed members of the Blight Abatement 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 October, 2022, by Vice-Mayor Wright, who moved its adoption, which motion being duly seconded by Councilmember Ricci, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Escutia-Braaton, Kenoyer, Madrigal, Ricci, Wright, Mayor Zwahlen

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST:   
DIANE NAYARES-PEREZ, CMC,  
City Clerk

(SEAL)

APPROVED AS TO FORM:

BY:   
JOSE M. SANCHEZ, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2022-422**

**RESOLUTION APPROVING A HOMEOWNER REHABILITATION LOAN IN THE AMOUNT OF \$80,251 AND A HOMEOWNER REHABILITATION GRANT IN THE AMOUNT OF \$10,000 TO CHRISTOPHER AND STACEY GATES FOR HEALTH AND SAFETY REPAIRS TO THE RESIDENTIAL PROPERTY LOCATED AT 1125 SPRINGCREEK DRIVE, MODESTO, CA 95355 AND AUTHORIZING THE CITY MANAGER TO EXECUTE THE AGREEMENTS**

WHEREAS, on August 4, 2022 HRLC approved a \$69,772 Homeowner Rehabilitation Loan and a \$10,000 Homeowner Rehabilitation Grant for Christopher & Stacey Gates for the property located at 1125 Springcreek Drive, Modesto, CA 95355, and

WHEREAS, the project was advertised on Planet Bids on August 15, 2022 and also advertised in the Modesto Bee, and

WHEREAS, four general contractors submitted sealed bid packets to the City Clerk. On September 12, 2022 the City Clerk facilitated the bid opening, and

WHEREAS, Zack's Handyman & Construction of Denair, California was the apparent low bidder, and

WHEREAS, the bid analysis is as follows: number of bids received 4, number of bids in compliance with (Section 6, subsection 14.5) 3, number of bids outside compliance with (Section 6, subsection 14.5) 1, and

WHEREAS, the Intent to Award was sent to Zack's Handyman & Construction, as the apparent low bidder for project 1125 Springcreek Drive for \$90,251 inclusive of a 12% contingency, and

WHEREAS, Section 6: Homeowner Rehabilitation Program Policies & Procedures, Resolution 2019-513 states in Section 14.0 Cost Reasonableness: "bids

received must be within 15% of the Housing Rehabilitation Specialist’s cost estimate,”  
and

WHEREAS, the Homeowner Rehabilitation Program was created to assist with low-income homeowners in need of rehabilitation and health and safety concerns of their property, and

WHEREAS, to ensure quality work, city staff assists with procurement of the contractor and oversight of the project, and

WHEREAS, City staff oversees the project to verify timelines and workmanship standards are adhered to, and

WHEREAS, City only provides funding and project oversight; the homeowner goes into direct agreement with the contractor.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves a Homeowner Rehabilitation Loan in the amount of \$80,251 and a Homeowner Rehabilitation Grant in the amount of \$10,000 to Christopher and Stacey Gates for health and safety repairs to the residential property located at 1125 Springcreek Drive, Modesto, CA 95355.

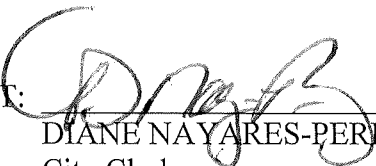
BE IT FURTHER RESOLVED that the City Manager or his designee is authorized to execute the agreements in a form approved by the City Attorney.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 25th day of October, 2022, by Councilmember Kenoyer, who moved its adoption, which motion being duly seconded by Councilmember Madrigal, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Escutia-Braaton, Kenoyer, Madrigal, Ricci, Wright, Mayor Zwahlen

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST:   
DIANE NAYARES-PEREZ, CMC,  
City Clerk

(SEAL)

APPROVED AS TO FORM:

BY:   
JOSE M. SANCHEZ, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2022-423**

**RESOLUTION APPROVING A WILL SERVE LETTER AND OUTSIDE SERVICE AGREEMENT FOR SEWER SERVICE FOR THE PROPERTY LOCATED AT 2117 PARR AVENUE (APN: 081-022-020), AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO SIGN THE WILL SERVE LETTER AND EXECUTE THE OUTSIDE SERVICE AGREEMENT**

WHEREAS, Panna YI and Ravin YI, own a single-family house located at 2117 Parr Avenue which is located outside of Modesto City Limits and inside the City's Sphere of Influence, and

WHEREAS, the property located at 2117 Parr Avenue, is not connected to City's sewer system and is requesting a sewer connection for to the existing house, and

WHEREAS, on November 25, 2014, City Council approved Resolution No. 2014-473 amending City Council Policy 5.002, and

WHEREAS, on December 9, 2014, City Council approved adoption of Ordinance No.3612-C.S. amending City of Modesto Municipal Code Section 11-1.05, and

WHEREAS both of these amendments included language allowing the City Manager, upon the recommendation of the Director responsible for utility system planning to approve standard agreements of service for extension of sewer services into certain unincorporated areas without City Council approval, and

WHEREAS, the property located at 2117 Parr Avenue is not located within one of those designated areas and therefore requires City Council approval prior to allowing the sewer connection, and

WHEREAS, City staff has completed an analysis and determined that it is reasonable for the City of Modesto to provide sewer service to this property, and

WHEREAS, consistent with adopted LAFCO Policy 15, the extension of sewer service is proposed to remedy a health and safety concern in an area with an existing sewer system, and

WHEREAS, the sewer connection fees shall be paid and associated permits will be obtained prior to connecting to the City sewer system, and

WHEREAS, the property owner has executed an Outside Service Agreement for sewer service with the City as required to receive sewer service outside the City limits.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the Will Serve Letter and Outside Service Agreement for sewer service for the property located at 2117 Parr Avenue (APN: 081-022-020) in Modesto.

BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to approve the Will Serve letter and execute the Outside Service Agreement for sewer service.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 25th day of October, 2022, by Councilmember Kenoyer, who moved its adoption, which motion being duly seconded by Councilmember Madrigal, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Escutia-Braaton, Kenoyer, Madrigal, Ricci, Wright, Mayor Zwahlen

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST:   
DIANE NAVARES-PEREZ, CMC,  
City Clerk

(SEAL)

APPROVED AS TO FORM:

BY:   
JOSE M. SANCHEZ, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2022-424**

**RESOLUTION APPROVING A ONE-TIME PURCHASE FOR FIVE HAYWARD GORDON PUMPS FROM HAYWARD GORDON GROUP, ONTARIO, CANADA, FOR AN AMOUNT NOT TO EXCEED OF \$135,278, AND AUTHORIZING THE DIRECTOR OF FINANCE, OR HER DESIGNEE TO EXECUTE THE PURCHASE ORDER**

WHEREAS, the City of Modesto, Utilities Department, Wastewater Treatment currently has a total of six Hayward Gordon pumps for the grit removal process at the Headworks in operation currently; and

WHEREAS, a total of five Hayward Gordon pumps have been in operation since 2014. One of the pumps was installed during the Headworks Capital Improvement Program (CIP) which has been in operation for the past year; and

WHEREAS, the grit system piping, pump pedestals, control, power supply and flows have all been designed around these pumps. City staff can make system changes but using a direct replacement pump which has proven design, performance, and reliability in this specific application for more than 25 years, is believed to be cost effective and it is not advised to purchase something other than original design; and

WHEREAS, if City staff were to change out the pumps to a different brand it could lead to additional cost, estimated at \$60,000 or more; and

WHEREAS, Modesto Municipal Code Section 8-3.203 generally requires all purchases, which meet or exceed \$50,000 for material, equipment, or contractual services, to be formally bid. However, MMC 8-3.204(b) provides that a purchase may be exempted from the City's formal bidding requirement where the Purchasing Agency's requirements can be met solely by a single article or process. Additionally, this one-time purchase of five Hayward Gordon Pumps qualifies for exemption from the formal

bidding procedure in accordance with Modesto Municipal Code 8-3.204(b) because Hayward Gordon is the original equipment manufacturer.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves this one-time purchase for five Hayward Gordon pumps from Hayward Gordon Group, Ontario, Canada, for an amount not to exceed of \$135,278.

BE IT FURTHER RESOLVED that the Director of Finance, or her designee, is hereby authorized to execute the purchase order, in a form approved by the City Attorney.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 25th day of October, 2022, by Councilmember Kenoyer, who moved its adoption, which motion being duly seconded by Councilmember Madrigal, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Escutia-Braaton, Kenoyer, Madrigal, Ricci, Wright, Mayor Zwahlen

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST:

  
DIANE NAYARÉS-PÉREZ, CMC,  
City Clerk

(SEAL)

APPROVED AS TO FORM:

BY:

  
JOSE M. SANCHEZ, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2022-425**

**RESOLUTION APPROVING THE AWARD OF PROPOSAL AND AGREEMENT FOR THE FURNISHING OF EXTERNAL AUDITING SERVICES TO VASQUEZ AND COMPANY LLC, GLENDALE, CALIFORNIA, FOR A THREE (3) YEAR AGREEMENT WITH TWO (2) ONE-YEAR EXTENSION OPTIONS, FOR AN ESTIMATED ANNUAL COST OF \$142,228, AND OVER FIVE (5) YEARS OF \$715,000; AND AUTHORIZING THE CITY MANAGER OR HIS DESIGNEE TO EXECUTE THE AGREEMENT**

WHEREAS, under Section 1306 of the Modesto City Charter requires the Council to employ independent auditors to perform an annual financial audit of the City to examine the financial records managed by City employees; and

WHEREAS, the City requests an external auditor to express an opinion on the fair presentation of its basic financial statements and schedule of expenditures from federal awards in conformity with generally accepted accounting principles, the provisions of the Federal Single Audit Act Amendments of 1996 and Title 2 U.S. Code of Federal Regulations (CFR) Part 200, Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards (Uniform Guidance); and

WHEREAS, the City is the financial administrator for five (5) joint power agencies/program audits and twelve (12) Community Facilities Districts and will require the financial statement compilation and express an opinion on the financial statements and programs for these funds; and

WHEREAS, the Purchasing Division issued Request for Proposal (RFP) No. 2122-40 for external auditing services on PlanetBids via the City's website under nine (9) commodity codes; and

WHEREAS, on April 26, 2022, proposals were formally opened by the City Clerk's Office and broadcast via Microsoft Teams Livestream; and

WHEREAS, seven (7) companies chose to respond with responsive and responsible proposals, none of which were local vendors; and

WHEREAS, proposals were based on an evaluation criterion on technical proposal, mandatory elements, expertise and experience, audit approach, and cost; and

WHEREAS, Modesto Municipal Code Section 8-3.203 generally requires all purchases, which meet or exceed \$50,000 for material, equipment or contractual services to follow the formal bid procedures; and

WHEREAS, based on the highest evaluation scoring, the evaluation committee recommends the award of proposal for the external auditing services to Vasquez and Company LLC. Vasquez and Company LLC is certified as a minority business enterprise and small business enterprise in the State of California and provides a wide-range of diversity in their workforce.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the award of proposal and agreement for the furnishing of external auditing services to Vasquez and Company LLC, Glendale, California, for a three (3) year agreement with two (2) one-year extension options, for an estimated annual cost of \$142,228, and over five (5) years of \$715,000.

BE IT FURTHER RESOLVED, that the City Manager, or his designee, is hereby authorized to execute the agreement, in a form approved by the City Attorney.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 25th day of October, 2022, by Councilmember Kenoyer, who moved its adoption, which motion being duly seconded by Councilmember Madrigal, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Escutia-Braaton, Kenoyer, Madrigal, Ricci, Wright, Mayor Zwahlen

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST:   
DIANE NAYARÉS-PÉREZ, CMC,  
City Clerk

(SEAL)

APPROVED AS TO FORM:

BY:   
JOSE M. SANCHEZ, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2022-426**

**RESOLUTION APPROVING THE SOLE SOURCE PURCHASE AGREEMENT WITH NUTRIEN AG SOLUTIONS, SACRAMENTO, CA, FOR WEED ABATEMENT CHEMICAL PREMIX KNOWN AS (AQUMIX PROPRIETARY CUSTOM PRE-BLEND) FOR A ONE-YEAR AGREEMENT WITH FOUR (4) ONE-YEAR EXTENSION OPTIONS, FOR AN ANNUAL ESTIMATED AMOUNT OF \$70,000, AND A TOTAL AMOUNT NOT TO EXCEED \$350,000 OVER FIVE-YEARS AND AUTHORIZING THE DIRECTOR, OF FINANCE OR HER DESIGNEE TO EXECUTE THE PURCHASE AGREEMENT**

WHEREAS, the City of Modesto, Utilities Department has maintained over seven miles of State of California levee adjacent to the 3,000-acre ranch at the Jennings Facility for more than fifty-three (53) years. Every six-months, the levee is inspected by the Department of Water Resources to ensure the levee continues to meet the requirements of the Army Corps of Engineers; and

WHEREAS, the City is required to maintain this portion of the levee system in a bare ground condition to allow thorough inspections, to help with rodent control, maintain a weed free area around the water collection areas and to lessen mosquito habitat; and

WHEREAS, over the years the Utilities Department, Wastewater Division has tried different chemicals which allow for safe mixing, application processes and lowering labor costs. With the weed abatement product purchased through Nutrien Ag Solutions, the Wastewater Division has reduced the number of required treatments and increased the cost effectiveness of a single mixture, which can accomplish both post and pre-emergent weed control in one application; and

WHEREAS, Modesto Municipal Code Section 8-3.203 generally requires all purchases, in excess of fifty thousand dollars \$50,000 to follow formal bid procedures.

However, MMC 8-3.204(b) provides that a purchase may be exempted from the City's formal bidding requirement where the Purchasing Agency's requirements can be met solely by a single article or process. Additionally, the purchase of the weed abatement chemical premix from Nutrien Ag Solutions should be exempt from the formal bidding procedure in accordance with Modesto Municipal Code 8-3.204(b) because Nutrien Ag Solutions is the sole proprietor vendor that is able to provide the weed abatement chemical premix. Therefore, this purchase qualifies for exemption from the formal bidding procedures.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby authorizes the sole source Purchase Agreement with Nutrien Ag Solutions, Sacramento, CA, for weed abatement chemical premix known as (Aqumix Proprietary Custom Pre-blend) for a one-year agreement with four (4) one-year extension options, for an annual estimated amount of \$70,000, and a total amount not to exceed \$350,000 over five-years.

BE IT FURTHER RESOLVED that the Director of Finance, or her designee, is hereby authorized to execute the Purchase Agreement.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 25th day of October, 2022, by Councilmember Kenoyer, who moved its adoption, which motion being duly seconded by Councilmember Madrigal, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Escutia-Braaton, Kenoyer, Madrigal, Ricci, Wright, Mayor Zwahlen

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST:   
DIANE NAYARES-PEREZ, CMC,  
City Clerk

(SEAL)

APPROVED AS TO FORM:

BY:   
JOSE M. SANCHEZ, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2022-427**

**RESOLUTION APPROVING THE ACCEPTANCE THE FISCAL YEAR 2022-2023 CAL FIRE RURAL FIRE CAPACITY (RFC) PROGRAM GRANT AWARD IN THE AMOUNT OF \$39,800, WHICH INCLUDES A 50% LOCAL MATCH, FOR THE PROCUREMENT OF WILDLAND FIREFIGHTING EQUIPMENT**

WHEREAS, on May 3, 2022, Council approved Resolution 2022-207, authorizing the application for this grant. Since then, the Modesto Fire Department has received notification that it has been awarded \$39,800, which includes a 50% local match of funds; and

WHEREAS, the Fiscal Year 2022-2023 Cal Fire Rural Fire Capacity (RFC) Program Grant provides funding to organize, train and equip fire departments in rural areas and rural communities to prevent and suppress fires. The Modesto Fire Department contract with City of Oakdale and Oakdale Fire Protection District allowed the department to apply for the grant; and

WHEREAS, the RFC Grant Program provides financial assistance directly to eligible fire departments for critical training and equipment. The objective is to provide critically needed resources that equip and train emergency personnel to recognized standards, enhance operational efficiencies, foster interoperability, and support community resilience; and

WHEREAS, the Modesto Fire Department is seeking approval to accept the Fiscal Year 2022-2023 Cal Fire Rural Fire Capacity Program grant in an amount that will not exceed \$39,800, which includes a 50% local match of funds. The department intends to apply this grant towards the purchasing of wildland firefighting equipment in order to

replace aging and outdated wildland equipment that is no longer in service or does not meet current standards; and

WHEREAS, there is a 50% required local match for the Cal Fire RFC Program Grant. The awarded amount is \$19,900, which requires a \$19,900 local match. The department would fund the match within its adopted budget; and

WHEREAS, due to the critical need of replacing critical firefighting equipment, the department would prioritize funding within existing budget for the match. The equipment identified in the grant application has been identified as needing replacement; without this grant the Fire Department will bear the cost of the full \$39,800.

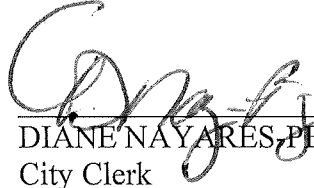
NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the acceptance the Fiscal Year 2022-2023 Cal Fire Rural Fire Capacity (RFC) Program Grant award in the amount of \$39,800, which includes a 50% local match, for the procurement of wildland firefighting equipment.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 25th day of October, 2022, by Councilmember Kenoyer, who moved its adoption, which motion being duly seconded by Councilmember Madrigal, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Escutia-Braaton, Kenoyer, Madrigal, Ricci, Wright, Mayor Zwahlen

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST:   
DIANE NAYARÉS PÉREZ, CMC,  
City Clerk

(SEAL)

APPROVED AS TO FORM:

BY:   
JOSE M. SANCHEZ, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2022-428**

**RESOLUTION APPROVING THE SOLE SOURCE AGREEMENT WITH CIVICPLUS FOR THE CONTINUED, UNINTERRUPTED HOSTING AND MAINTENANCE OF MODESTO'S WEBSITE (WWW.MODESTOGOV.COM) FOR A FOUR-YEAR TERM IN AN AMOUNT OF \$149,350 PLUS 10% CONTINGENCY IN THE AMOUNT OF \$14,935, FOR A TOTAL AMOUNT NOT TO EXCEED \$164,285; AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE AGREEMENT**

WHEREAS, on September 22, 2015, by Resolution No. 2015-356, Council approved the award of agreement for website maintenance to CivicPlus; and

WHEREAS, after a lengthy Request for Proposal (RFP) process accomplished in 2015, the City of Modesto entered into an agreement with CivicPlus to help re-design, host and implement our current website; and

WHEREAS, on September 25, 2018, by Resolution No. 2018-409, the City of Modesto renewed the agreement with CivicPlus for a four-year term to help re-design, host and implement our current website; and

WHEREAS, that agreement is nearing completion and as the City has been satisfied with the hosting services supplied by CivicPlus, desires to renew the agreement for an additional four-year term; and

WHEREAS another four-year term will cost \$149,350 plus a 10% contingency in the amount of \$14,935 for a total amount not to exceed \$164,285; and

WHEREAS Modesto Municipal Code Section 8-3.203 generally requires all purchases, which meet or exceed \$50,000 for material, equipment, or contractual services to be formally bid; and

WHEREAS staff recommends the upgrade and renewal of this agreement to CivicPlus should be exempt from the formal bidding process in accordance with Modesto

Municipal Code 8-3.204(b) since they are the current and sole provider of this service;  
and

WHEREAS MMC 8-3.204(b) provides that a purchase may be exempted from the City's formal bidding requirement where the Purchasing Agency's requirements can be met solely by a single article or process; and

WHEREAS, this purchase of these services conforms to the Modesto Municipal Code; and

WHEREAS, under this agreement, the maintenance for year one will be \$41,787.79; and

WHEREAS the maintenance for year two will be \$34,855.39; and

WHEREAS the maintenance for year three will be \$35,738.31; and

WHEREAS the maintenance cost for year four will be \$36,968.46 for a four-year grand total of \$149,349.95.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the renewed sole source agreement with CivicPlus for the continued website maintenance for the City of Modesto for a four-year term at an amount of \$149,350 plus a 10% contingency in the amount of \$14,935 for a total amount not to exceed \$164,285.

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 25th day of October, 2022, by Councilmember Kenoyer, who moved its adoption, which motion being duly seconded by Councilmember Madrigal, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Escutia-Braaton, Kenoyer, Madrigal, Ricci, Wright, Mayor Zwahlen

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST:   
DIANE NAYARÉS-PÉREZ, CMC,  
City Clerk

(SEAL)

APPROVED AS TO FORM:

BY:   
JOSE M. SANCHEZ, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2022-429**

**RESOLUTION ACCEPTING THE DEL RIO TANK NO. 14, WELL NO. 68, AND PUMP STATION PROJECT AS COMPLETE, AUTHORIZING ALL NECESSARY STEPS TO FILE WITH THE COUNTY RECORDER, RELEASING SECURITIES, AND RELEASING PAYMENTS TOTALING \$10,203,691 TO MOUNTAIN CASCADE, INC., LIVERMORE, CA**

WHEREAS, this project constructed a 0.25-million-gallon steel water tank, a 1,000 gallon-per-minute (gpm) well production pump, a 2.45 million gallon-per-day booster pump station, a 1.4-acre-foot retention basin, and a 16-inch transmission main installation from the intersection of St. John Road and Country Club Drive, south to Ladd Road, where it ties into the tank site; and

WHEREAS, the project increased service reliability, corrected existing supply and pressure deficiencies of the City's Del Rio water system, located northwest of the Modesto city limits; and

WHEREAS, the project site is located at 718 Ladd Road on approximately 4 acres just southeast of the intersection of Ladd Road and St. Johns Road; and

WHEREAS, the City was obligated to provide this improvement by January 31, 2014, in accordance with the amended terms of a Settlement Agreement between the City and the Del Rio Community Association; and

WHEREAS, project delays occurred due to litigation, while staff continued to work with the Del Rio Community Association to extend the deadline; and

WHEREAS, in consideration of the Settlement Agreement with the Del Rio Community Association and the City's obligation to complete the recommended improvements to meet the existing Del Rio water system needs, staff moved forward with final design of the Del Rio Tank 14, Well 68 and Pump Station Project in the

summer of 2017; and

WHEREAS, on October 3, 2017, by Resolution No. 2017-390, Council approved a first amendment with North Star Engineering Group for final design services for the Del Rio Tank 14, Well 68 and Pump Station Project; and

WHEREAS, at that same meeting, by Resolution No. 2017-391, Council accepted the Preliminary Design Report that generated the design; and

WHEREAS, bids were publicly opened on May 15, 2018, pursuant to Modesto Municipal Code section 803.403 and City Charter Section 1307; and

WHEREAS, three bids were received, and Mountain Cascade, Inc., of Livermore, CA, was the apparent lowest bidder at 7.31% below the engineer's estimate; and

WHEREAS, on October 2, 2018, by Resolution No. 2018-432, Council awarded a contract to Mountain Cascade, Inc., of Livermore, CA, for the construction of the Del Rio Tank No. 14, Well No. 68, and Pump Station project in the amount of \$8,111,702; and

WHEREAS, on May 05, 2020, by Resolution No. 2020-214, council authorized the Director of Utilities approval of change orders up to 38% of the original contract price for the Del Rio Tank No. 14, Well No. 68, and Pump Station Project and therefore, the approved contingency amount for the project was \$2,854,117; and

WHEREAS, there were thirty-six change orders resulting in an overall increase of \$\$2,692,855; and

WHEREAS, by accepting this project as complete, the City officially accepts the improvements made and authorizes the Notice of Completion to be filed.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Del Rio Tank No. 14, Well No. 68, and Pump Station project as complete,

authorizing all necessary steps to file with the county recorder, releasing securities, and releasing payments totaling \$10,203,691 to Mountain Cascade, Inc., Livermore, CA.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 25th day of October, 2022, by Councilmember Wright, who moved its adoption, which motion being duly seconded by Councilmember Ricci, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Escutia-Braaton, Kenoyer, Madrigal, Ricci,  
Wright, Mayor Zwahlen

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST:

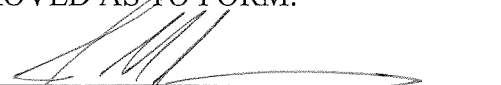


DIANE NAYAS-PEREZ, CMC,  
City Clerk

(SEAL)

APPROVED AS TO FORM:

BY:

  
JOSE M. SANCHEZ, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2022-430**

**RESOLUTION ACCEPTING THE REBID FIRE STATION 5 KITCHEN  
REMODEL PROJECT AS COMPLETE, AUTHORIZING ALL NECESSARY  
STEPS TO FILE WITH THE COUNTY RECORDER, RELEASING  
SECURITIES, AND RELEASING PAYMENTS TOTALING \$154,573 TO O.K.  
CONSTRUCTION, ANTELOPE, CA**

WHEREAS, Fire Station 5 is a 55-year-old masonry building located at 200 W  
Briggsmore Avenue, and

WHEREAS, the scope of work included renovations to the existing kitchen and  
office areas including new cabinets, countertops, appliances, flooring, and paint, and

WHEREAS, the project was originally advertised for bid on January 26, 2021,  
and bids were publicly opened on March 9, 2021, pursuant to Modesto Municipal Code  
section 8-3.403 and City Charter Section 1307, and

WHEREAS, four bids were received, and

WHEREAS, staff recommended the rejection of all four bids and the re-  
advertising of the project due to two bidders being deemed non-responsive and the  
remaining two bids coming in at more than 15% above the engineer's estimate, and

WHEREAS, on April 13, 2021, by Resolution 2021-142, Council rejected all  
bids for the Fire Station 5 Kitchen Remodel Project, and authorized staff to re-advertise  
the project for bids at a future date with an amended scope of work, and

WHEREAS, the project was re-advertised for bid on April 27, 2021, and

WHEREAS, bids were publicly opened on May 25, 2021, pursuant to City  
Charter Section 1307, and

WHEREAS, only one bid was received from O.K. Construction, of Antelope,  
CA was the responsible bidder with the lowest responsive bid, and

WHEAREAS, on August 10, 2021, by Resolution No. 2021-326 Council awarded a contract to O.K. Construction of Antelope, CA for the construction of the Rebid Fire Station 5 Kitchen Remodel project for the amount of \$121,750, and

WHEREAS, the contractor received the Notice to Proceed with a first working day of October 25, 2021. All contract work was completed by April 4, 2022, and

WHEREAS, the total project costs were \$198,850 which included design, construction, and construction administration costs. The total project amount originally budgeted was \$207,080 which included \$146,750 for the construction contract and contingency with O.K. Construction, of Antelope, CA., and

WHEREAS, the City's "Change Order Approval Policy" enacted by Council Resolution No. 94-443 on July 19, 1994, and updated by Resolution No. 2019-326 on July 9, 2019, states that a contract of at least \$250,000 allows Directors Authority not to exceed \$25,000 of the contract amount, and

WHEREAS, there were seven change orders on this project with an overall increase of \$32,823, and

WHEREAS, the additional change order costs for the Fire Station 5 Kitchen Remodel project work are in excess of \$7,823 of the original authorized change order authority, and

WHEREAS, these costs were funded by the Fire Department and no additional funding is requested at this time, and

WHEREAS, this request is based on the need to document the additional Directors Authority needed to complete this project

WHEREAS, Staff requests Council approval to authorize an increase to the original Directors Authority of \$25,000 to \$32,823.

WHEREAS, by accepting this project as complete, the City officially accepts the improvements made and authorizes the Notice of Completion to be filed.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Council adopt a Resolution Accepting The Rebid Fire Station 5 Kitchen Remodel Project as Complete, Authorizing All Necessary Steps To File With The County Recorder, Releasing Securities, and Releasing Payments Totaling \$154,573 to O.K. Construction, Antelope, CA.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 25th day of October, 2022, by Councilmember Kenoyer, who moved its adoption, which motion being duly seconded by Councilmember Madrigal, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Escutia-Braaton, Kenoyer, Madrigal, Ricci, Wright, Mayor Zwahlen

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST:



DIANE NAYARHS-PHREZ, CMC,  
City Clerk

(SEAL)

APPROVED AS TO FORM:

BY:   
JOSE M. SANCHEZ, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2022-431**

**RESOLUTION AUTHORIZING AN INCREASE TO THE DIRECTOR OF  
UTILITIES AUTHORITY FOR CHANGE ORDERS FOR THE REBID FIRE  
STATION 5 KITCHEN REMODEL PROJECT TO THE TOTAL AMOUNT OF  
\$32,823 (27% OF THE ORIGINAL CONTRACT PRICE)**

WHEREAS, on August 10, 2021, the City Council, by Resolution No. 2021-326, awarded a \$146,750 contract to O.K. Construction, of Antelope, CA, for the construction of the Rebid Fire Station 5 Kitchen Remodel Project, and

WHEREAS, the project was funded by the General Fund, and

WHEREAS, the Director's authority of an additional 20.5 percent (\$25,000) for change orders was authorized for the project, and

WHEREAS, the cost of the change order work has been estimated to be \$32,823, an amount that 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 of Utilities 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 authorizes the Director of Utilities to issue change orders on the Rebid Fire Station 5 Kitchen Remodel Project in the total amount of \$32,823 (27% of the original contract price).

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 25th day of October, 2022, by Councilmember Kenoyer, who moved its adoption, which motion being duly seconded by Councilmember Madrigal, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Escutia-Braaton, Kenoyer, Madrigal, Ricci, Wright, Mayor Zwahlen

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST:   
DIANE NAYARES-PEREZ, CMC,  
City Clerk

(SEAL)

APPROVED AS TO FORM:

BY:   
JOSE M. SANCHEZ, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2022-432**

**RESOLUTION APPROVING A FIRST AMENDMENT TO THE AGREEMENT WITH BARTLE WELLS ASSOCIATES, BERKELEY, CA, FOR THE PREPARATION OF THE WASTEWATER RATE STUDY & PROPOSITION 218 ASSISTANCE IN THE AMOUNT OF \$29,900, FOR A REVISED TOTAL AMOUNT NOT TO EXCEED \$149,175, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE AGREEMENT**

WHEREAS, on December 8, 2020, per Resolution No. 2020-522, Council approved an agreement with Bartle Wells Associates for the preparation of a Wastewater Rate Study & Proposition 218 Assistance (Study), in an amount not to exceed \$119,275; and

WHEREAS, the Study was initially scheduled to be completed by the end of 2021; unfortunately, the project experienced delays due to additional analysis requirements and COVID related impacts; and

WHEREAS, the additional effort associated with the development, review and analysis of multiple operating and capital spending scenarios, information presentations to City staff, elected representatives and industry stakeholders resulted in an expansion of the original agreement's scope and additional consultant charges; and

WHEREAS, on April 12, 2022, by Resolution 2022-196 Council adopted wastewater service rates effective Fiscal Year 2022-23 through Fiscal Year 2026-27 which became effective July 1, 2022; and

WHEREAS, staff is recommending a first amendment to the agreement with Bartle Wells Associates, Berkeley, CA, in the amount of \$29,900; and

WHEREAS, in accordance with Modesto Municipal Code 8-3.2504(a) Exceptions to Formal Bidding Requirements, this amendment to the agreement is for professional services and, therefore, exempt from the bid requirement.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves a First Amendment to the Agreement with Bartle Wells Associates, for the preparation of a Wastewater Rate Study & Proposition 218 Assistance in an amount not to exceed \$29,900 for the identified scope of services, for a revised maximum total amount of \$149,175.

BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to execute the First Amendment to the Agreement in a form approved by the City Attorney.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 25th day of October, 2022, by Councilmember Kenoyer, who moved its adoption, which motion being duly seconded by Councilmember Madrigal, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Escutia-Braaton, Kenoyer, Madrigal, Ricci, Wright, Mayor Zwahlen

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST:

  
DIANE NAYARES PEREZ, CMC,  
City Clerk

(SEAL)

APPROVED AS TO FORM:

BY:   
JOSE M. SANCHEZ, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2022-433**

**RESOLUTION APPROVING THE RELOCATION REQUEST OF DOCTOR'S CHOICE DISPENSARY FROM 2039 YOSEMITE AVENUE TO 121 PHOENIX AVENUE, MODESTO CA 95350, AND GRANTING A RESIDENTIAL PROXIMITY WAIVER**

WHEREAS, the City Council has adopted a Commercial Cannabis Ordinance, Ordinance 3684-C.S., that established the City's regulatory framework for commercial cannabis uses, and

WHEREAS, under Section 10-3.704(b) of the Ordinance, the City Council via Resolution 2017-525 established the total number of commercial cannabis permits issued by the City for cannabis dispensaries at ten maximum (10) permits, and

WHEREAS, under Section 10-3.704(g) and City Council Resolution 2017-525, the City Manager designed the application forms and procedures for commercial cannabis dispensary renewal permits, with input from the City Council Ad Hoc Cannabis Committee, and

WHEREAS, City Council via Resolution 2018-566 issued a commercial cannabis permit to the following dispensary business, Doctor's Choice, located at 2039 Yosemite Ave., and

WHEREAS, on April 13, 2021 the City Council by Resolution No. 2021-132 established the Cannabis Permit Review Committee for the purpose of reviewing and approving commercial non-dispensary and non-delivery cannabis businesses, and

WHEREAS, on March 1, 2022, the Council by Resolution No. 2022-109 expanded the role of the Cannabis Permit Review Committee to advise the Council on all

cannabis-related matters and renamed the Committee to the Cannabis Program and Permit Review Committee, and

WHEREAS, Doctor's Choice requested relocation of the business from 2039 Yosemite Ave. to 121 Phoenix Ave. on November 8, 2021, and

WHEREAS, pursuant to Modesto Municipal Code Section 10-3.704(d), a commercial cannabis business may move physical locations only upon City approval; and

WHEREAS, the relocation request was heard at a properly noticed public hearing of the Cannabis Program and Permit Review Committee on October 13, 2022 with the committee recommending to forward to Council for approval of the relocation and the granting of a residential proximity waiver.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the relocation of Type 10 Business Permit Relocation Request Doctor's Choice Dispensary from 2039 Yosemite Avenue to 121 Phoenix Avenue, Modesto, CA 95350, and granting a residential proximity waiver.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 25th day of October, 2022, by Councilmember Kenoyer, who moved its adoption, which motion being duly seconded by Councilmember Escutia-Braaton, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Escutia-Braaton, Kenoyer, Madrigal, Ricci, Wright

NOES: Councilmembers: None

ABSENT: Councilmembers: Mayor Zwahlen

ATTEST:   
DIANE NAYARES-PEREZ, CMC,  
City Clerk

(SEAL)

APPROVED AS TO FORM:

BY:   
JOSE M. SANCHEZ, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2022-434**

**RESOLUTION APPROVING THE AWARD OF LOANS AND GRANTS TO STANISLAUS REGIONAL HOUSING AUTHORITY WITH GREAT HOUSING DEVELOPMENT CORPORATION AS DEVELOPER IN THE TOTAL AMOUNT NOT TO EXCEED \$3,226,604 FOR THE DEVELOPMENT OF THE VINE STREET AFFORDABLE HOUSING PROJECT INCLUDING THE VINE STREET ROAD IMPROVEMENTS AND \$100,000 FOR STAFF ACTIVITY DELIVERY COSTS AND AUTHORIZING THE CITY MANAGER OR DESIGNEE TO EXECUTE AGREEMENTS**

WHEREAS, the City, Stanislaus Regional Housing Authority (Stan Regional), and Stanislaus Behavioral Health and Recovery Services (BHRS) have been collaborating on the development of two complexes of affordable housing located on Vine Street; and

WHEREAS, on November 6, 2018, by Resolution number 2018-489, the City of Modesto awarded \$280,000 in Community Development Block Grant (CDBG) to the Stanislaus Regional Housing Authority for the acquisition of property located on Vine Street (APN: 030-010-042), between the Helen White Trail to the west, and S. Martin Luther King Dr to the east, for the future development of 34 affordable housing units; and

WHEREAS, since the acquisition of the property in 2019, the Stanislaus Regional Housing Authority has been further developing the scope of the project and securing funding; and

WHEREAS, in partnership with Stanislaus Behavior Health and Recovery Services (BHRS) – No Place Like Home Program funds, Mental Health Services Act (MSHA), and F&M Bank loan have determined that for this project to capitalize on the funding opportunities, it needs to be passed from Stanislaus Regional Housing Authority as developer to their non-profit arm Great Valley Development Corporation (GVDC) that

is one of the City's approved Community Housing Development Organizations (CHDO);  
and

WHEREAS, as a direct recipient of several funding sources that are dedicated to the development of affordable housing within the City of Modesto, the City will use its HOME Investment Partnership (HOME), The HOME CHDO Set-Aside, Permanent Local Housing Allocation (PLHA), and the Community Development Block Grant (CDBG) funds to bring the full scope of this project into realization; and

WHEREAS, Stanislaus Regional, as property owner, with Great Valley Development Corporation, as the developer, will produce 34 units of affordable housing that will result in two separate housing complexes and incidental Vine Street related infrastructure improvements; and

WHEREAS, King Kennedy Veteran Cottages will result in gated development consisting of twenty-three (23) 580 sq. ft. one-bedroom detached units with stove, refrigerator, dishwasher, microwave, and laundry unit. The complex will include one management unit; and

WHEREAS, it will be a permanent supportive housing complex for veterans with incomes restrictions for designated units at or below 30% of the area median income (AMI) that will be in partnership with BHRS, the development will offer these veterans a permanent solution to their housing challenges and provide services as well as an on-site meeting room; and

WHEREAS, The Helen White Court will result in a gated development that consist of twelve (12) units available to low-income seniors and one (1) manager unit;  
and

WHEREAS, these proposed 1 bedroom and 1 bath approximately 650 to 700 sq. ft. attached units with incomes restrictions for designated units at or below 120% of the area median income (AMI) include a courtyard with a large, naturalized garden area utilizing boulders and cobblestone to create a rustic setting with trees for shading and benches for sitting and conversation in the center of the complex; and

WHEREAS, Vine Street is currently a private road, and not owned by the City. As a condition of approval through the City's Planning approval process, the Stanislaus Regional Housing Authority will be responsible for right-of-way acquisition, curb, sidewalk, gutter, and pavement repairs from South Martin Luther King Drive to the concrete wall at the end of Vine Street that brings road up to City Standard creating a safe space that will support the increase in residential density; and

WHEREAS, in order to ensure that the project's cost estimate was reasonable, Stan Regional has already proceeded with the formal procurement process; and

WHEREAS, because of the increase in all costs and supply chain issues the lowest responsible bidder came in with a total project cost of \$10,791,648 including contingencies and before approaching the City of Modesto, Stan Regional had secured funding commitments totaling \$7,565,044 or 70% of the total project cost; and

WHEREAS, one of the funding commitments in the amount of \$1,884,671 in State of California No Place Like Home Program that was committed to this project in 2019 is in jeopardy if this project cannot secure this funding and begin construction as soon as possible and it has been noted that this is the last project funded during that grant cycle that has not started construction; and

WHEREAS, this funding commitment is 30% of the total project cost, and less than \$95,000 per unit; and

WHEREAS, staff proposes that the City funds the project gap totaling \$3,226,604; and

WHEREAS, staff proposes the project be allocated as a PLHA funded Loan in an amount not to exceed \$958,723; and

WHEREAS, staff proposes the project be allocated as a CDBG funded Grant in an amount not to exceed \$480,910; and

WHEREAS, staff proposes the project be allocated as a HOME CHDO Set-Aside funded Loan in an amount not to exceed \$195,512.43; and

WHEREAS, staff proposes the project be allocated as a HOME Entitlement funded Loan in an amount not to exceed \$1,591,458.57; and

WHEREAS, all loans shall be for a term of 55 years, with 1% simple interest, deferred until the end of the loan term.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the award of the following grants and loans to Stanislaus Regional Housing Authority with Great Housing Development Corporation for the development of the Vine Street affordable housing project including the Vine Street road improvements and \$100,000 for staff activity delivery costs:

1. A PLHA funded loan in an amount not to exceed \$958,723; and
2. A CDBG funded grant in an amount not to exceed \$480,910; and
3. A HOME CHDO Set-Aside funded loan in an amount not to exceed \$195,512.43; and

4. A HOME Entitlement funded Loan in an amount not to exceed \$1,591,458.57.

BE IT FURTHER RESOLVED that the City Manager, or his designee, to authorizing the City Manager or his designee to execute the agreement with such changes as determined by the City Attorney.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 25th day of October, 2022, by Councilmember Madrigal, who moved its adoption, which motion being duly seconded by Councilmember Escutia-Braaton, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Escutia-Braaton, Kenoyer, Madrigal, Ricci, Wright, Mayor Zwahlen

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST:

  
DIANE NAYARES-PEREZ, CMC,  
City Clerk

(SEAL)

APPROVED AS TO FORM:

BY:

  
JOSE M. SANCHEZ, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2022-435**

**RESOLUTION AMENDING THE FISCAL YEAR 2022-2023 MULTI-YEAR FUND BUDGET (101193) TO INCREASE THE BUDGET OF THE VINE STREET PROJECT FUND (101185) WITH COMMUNITY DEVELOPMENT BLOCK GRANT (CDBG) FUNDS, HOME INVESTMENT PARTNERSHIP FUNDS (HOME) HOME COMMUNITY HOUSING DEVELOPMENT ORGANIZATIONS (CHDO) SET AIDE AND PERMANENT LOCAL HOUSING ALLOCATION (PLHA) FOR DEVELOPMENT OF THE VINE STREET AFFORDABLE HOUSING PROJECT TOTALING \$3,226,604 AND AN ADDITIONAL \$100,000 BUDGETED FOR ACTIVITY DELIVERY COSTS AND BUDGETING THE NECESSARY TRANSFERS AND AUTHORIZING THE CITY MANAGER OR HIS DESIGNEE TO TAKE THE NECESSARY STEPS TO IMPLEMENT THE PROVISIONS IN THIS RESOLUTION**

WHEREAS, the City of Modesto is applying to receive entitlement funding from the State of California Housing and Community Development Department (HCD) based on its entitlement status of the U.S. Department of Housing and Urban Development Community Development Block Grant Program; and

WHEREAS, each year the City of Modesto receives Community Development Block Grant (CDBG), and HOME Investment Partnership Grant (HOME) funds from the U.S. Department of Housing and Urban Development (HUD); and

WHEREAS, the fiscal year 2022-2023 Multi-Year budget must be amended to increase the budget of Vine Street Project (101185) to total \$3,226,604 in project expenses and \$100,000 in activity delivery costs, to budget the revenues and expenses in the CDBG and PLHA programs and budget any necessary transfers.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it amends the fiscal year 2022-2023 multi-year fund budget to increase the budget to \$3,326,604 for the Vine Street project (101185).

BE IT FURTHER RESOLVED by that Council of the City of Modesto that it authorizes the City Manager or his designee 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 October, 2022, by Councilmember Madrigal, who moved its adoption, which motion being duly seconded by Councilmember Escutia-Braaton, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Escutia-Braaton, Kenoyer, Madrigal, Ricci, Wright, Mayor Zwahlen

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST:   
DIANE NAYARES-PEREZ, CMC,  
City Clerk

(SEAL)

APPROVED AS TO FORM:

BY:   
JOSE M. SANCHEZ, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2022-436**

**RESOLUTION CONTINUING TO AUTHORIZE REMOTE  
TELECONFERENCE MEETINGS OF THE CITY OF MODESTO PURSUANT  
TO ASSEMBLY BILL 361**

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

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

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

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

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

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

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

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

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

WHEREAS, on September 28, 2021, the City Council adopted Resolution No. 2021-370 authorizing remote teleconference meetings pursuant to AB361 (Government Code section 54953(e)); and

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

WHEREAS, the City Council has considered the circumstances of the Governor’s state of emergency proclamation pursuant to Government Code section 8625, which remains active; and

WHEREAS, on March 8, 2022, the County of Stanislaus Board of Supervisors terminated the Declaration of a Local Health Emergency that was issued on March 11, 2020; and

WHEREAS, the Stanislaus County Public Health Services Agency still strongly recommends community members to wear a mask while in “any indoor public space” along with other recommendations intended to promote social distancing measures; and

WHEREAS, the City Council, acting for itself and for the benefit of all of the City’s commissions, committees, and other bodies (collectively referred to as the “Legislative Bodies”), does hereby find that the Legislative Bodies shall continue to conduct their meetings without compliance with Government Code section 54953(b)(3), as authorized by Government Code section 54953(e), and that the Legislative Bodies shall continue to comply with the requirements to provide the public with access to the meetings as prescribed in Government Code section 54953(e)(2) as a consequence of the ongoing state of emergency and the continued social distancing measures required by local officials.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF MODESTO DOES HEREBY RESOLVE AS FOLLOWS:

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

Section 2. Consideration of State of Emergency. The City Council has considered the conditions of the state of emergency declared pursuant to Government Code section 8625, and determined that such emergency conditions continue to be present in the City.

Section 3. Continued Social Distancing Measures by State and Local Officials.

The City Council finds that the County of Stanislaus Health Officer's recommended measures to promote social distancing remain in effect.

Section 4. Remote Teleconference Meetings. The City Council finds that the conditions continue to exist pursuant to Government Code section 54953(e)(3) to allow Legislative Bodies to use teleconferencing to hold public meetings in accordance with Government Code section 54953(e)(2) to ensure members of the public have continued access to safely observe and participate in local government meetings.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 1st day of November, 2022, by Councilmember Kenoyer, who moved its adoption, which motion being duly seconded by Councilmember Escutia-Braaton, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Escutia-Braaton, Kenoyer, Madrigal, Ricci,  
Wright, Mayor Zwahlen

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST:

  
DIANE NAYARES-PEREZ, CMC,  
City Clerk

(SEAL)

APPROVED AS TO FORM:

BY:

  
JOSE M. SANCHEZ, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2022-437**

**RESOLUTION APPROVING A COMMUNITY BENEFIT AGREEMENT  
BETWEEN CITY OF MODESTO AND CENTER FOR HUMAN SERVICES FOR  
THE PURPOSE OF PROVIDING THE COMMUNITY BENEFIT PAYMENT ON  
BEHALF OF CANOPY GROWTH USA, LLC, AND AUTHORIZING THE CITY  
MANAGER, OR HIS DESIGNEE, TO EXECUTE THE AGREEMENT.**

WHEREAS, the Agriculture Improvement Act of 2018 (2018 Farm Bill) signed into law by President Trump on December 20, 2018, removed hemp from the list of Schedule I controlled substances under the Controlled Substances Act, thereby making industrial hemp a federally legal agricultural commodity; and

WHEREAS, under state law, industrial hemp is defined as a “crop that is limited to types of the plant Cannabis sativa L. having no more than three-tenths of 1 percent tetrahydrocannabinol (THC) contained in the dried flowering tops, whether growing or not; the seeds of the plant; the resin extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds or resin produced therefrom” and is regulated by the California Department of Food and Agriculture (Health and Safety Code § 11018.5); and

WHEREAS, Canopy Growth is a world-wide cannabis and hemp company who was seeking approval for an industrial hemp manufacturing facility in the City located in the former Buzz Oats building, at 401 E. Glenn Avenue with future plans for potential expansion developments within the area; and

WHEREAS, On November 04, 2020, the City Council, by Resolution No. 2020-463, approved the Hemp Operating Agreement for Hemp Manufacturing between The City of Modesto and Canopy Growth USA, LLC; and

WHEREAS, the approved Operating Agreement requires Canopy Growth to provide certain community benefits to the City of Modesto; one of which is a fixed community benefit contribution to organizations within the City; and

WHEREAS, the company is to contribute \$300,000 paid annually through \$100,000 payments for three (3) years; and

WHEREAS, the City of Modesto and Canopy Growth selected Center for Human Services (“Recipient”) to be the recipient for the first year in the amount of One Hundred Thousand Dollars (\$100,000); and

WHEREAS, Center for Human services will use the community benefit funds to provide operational support at the Modesto Counseling Clinic; and

WHEREAS, this is beneficial to the community by reducing the barriers to those who may be uninsured, lack financial resources, and/or how are undocumented; and

WHEREAS, if approved, the City will provide Center for Human Services with a payment of One Hundred Thousand Dollars (\$100,000) on behalf of Canopy Growth USA, LLC. Disbursement of the payment is dependent upon Recipient providing all records and documentation reasonably required by the City; and

WHEREAS, the Community Benefit payment will take effect via the execution of a Community Benefit agreement in the amount of \$100,000.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby authorizes approval of a Community Benefit Agreement between City of Modesto and Center for Human Services for the purpose of providing the Community Benefit payment to Center for Human Services on behalf of Canopy Growth USA, LLC.

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 November, 2022, by Councilmember Kenoyer, who moved its adoption, which motion being duly seconded by Councilmember Escutia-Braaton, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Escutia-Braaton, Kenoyer, Madrigal, Ricci, Wright, Mayor Zwahlen

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST:   
DIANE NAYARES-PÉREZ, CMC,  
City Clerk

(SEAL)

APPROVED AS TO FORM:

BY:   
JOSE M. SANCHEZ, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2022-438**

**RESOLUTION AMENDING THE FISCAL YEAR 2022-2023 MULTI-YEAR FUND BUDGET TO ESTABLISH APPLICABLE REVENUE, EXPENSE AND TRANSFER BUDGETS FOR THE COMMUNITY BENEFIT PAYMENT TO CENTER FOR HUMAN SERVICES ON BEHALF OF CANOPY GROWTH USA LLC TO BE FUNDED WITH CANNABIS COMMUNITY BENEFIT FUNDS AND AUTHORIZING THE CITY MANAGER OR HIS DESIGNEE, TO TAKE THE NECESSARY STEPS TO IMPLEMENT THE PROVISIONS OF THIS RESOLUTION**

WHEREAS, on November 04, 2020, by Resolution No. 2020-463, City Council approved the Hemp Operating Agreement between The City and Canopy Growth USA, LLC; and

WHEREAS, Canopy Growth shall provide an annual Fixed Community Benefit of \$100,000 to a single or multiple charitable organization within the City of Modesto; and

WHEREAS, the City and Canopy Growth selected Center for Human Services to receive this year's Fixed Community Benefit; and

WHEREAS, the City shall provide Center for Human Services a payment in the amount of \$100,000 on behalf of Canopy Growth; and

WHEREAS, if approved the fiscal year 2022-2023 Multi-Year budget must be amended.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby amends the fiscal year 2022-2023 multi-year fund budget to establish applicable revenue, expense and transfer budgets for the Community Benefit Payment to Center for Human Services on behalf of Canopy Growth USA, LLC to be funded with Cannabis Community Benefit Funds.


BE IT FURTHER RESOLVED that the City Manager or his designee is 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 November, 2022, by Councilmember Kenoyer, who moved its adoption, which motion being duly seconded by Councilmember Escutia-Braaton, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Escutia-Braaton, Kenoyer, Madrigal, Ricci, Wright, Mayor Zwahlen

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST:   
DIANE NAYARÉS-PÉREZ, CMC,  
City Clerk

(SEAL)

APPROVED AS TO FORM:

BY:   
JOSE M. SANCHEZ, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2022-439**

**RESOLUTION ACCEPTING THE ECONOMIC DEVELOPMENT INITIATIVE, COMMUNITY PROJECT FUNDING, AND AWARDED DOWNTOWN STREETS TEAM A GRANT OF \$400,000 TO SUPPORT THE PERMANENT HOUSING COMPONENT OF CAMP2HOME, AND DESIGNATING THE CITY MANAGER, OR HIS DESIGNEE, TO NEGOTIATE, AND EXECUTE ANY RELATED PROGRAM AGREEMENTS, CONTRACTS OR OTHER DOCUMENTATION REQUIRED FOR IMPLEMENTATION.**

WHEREAS, on March 15, 2022 United States Congress passed the H.R. 2471 Consolidated Appropriations Act, 2022, Congress made available funding for grants for the Economic Development Initiative for the purpose of Community Project Funding/Congressionally Directed Spending; and

WHEREAS, these Community Project Funding (CPF) awards are administered by the U.S Department of Housing and Urban Development (HUD); and

WHEREAS, the Camp2Home Initiative was one of ten projects sponsored by Representative Harder's Office during the 2022 fiscal year budget appropriation process; and

WHEREAS, for a program to be considered for funding through this process, it must be sponsored by direct Congressional support; and

WHEREAS, the Camp2Home Initiative was one of ten projects sponsored by Representative Harder's Office during the 2022 fiscal year budget appropriation process; and

WHEREAS, on July 18, 2022, the City was notified of an award through the Economic Development Initiative (EDI), Community Project Funding award, a congressionally legislated provision, that directs specific approved funds to be awarded

and spent on the City's Camp2Home initiative as identified by this authorizing legislation; and

WHEREAS, the City's Camp2Home initiative program is a comprehensive response to homelessness that offers an individual a path from homelessness to permanent employment and housing was selected as the eligible award recipient; and

WHEREAS, the Camp2Home program provides a path to self-sufficiency for individuals rebuilding their lives out of homelessness and aims at tackling homelessness on five key fronts: street outreach, shelter, job training, employment, and permanent housing; and

WHEREAS, the use of EDI funding will support the permanent housing component of Camp2Home; and

WHEREAS, this funding will provide an intervention that prioritizes permanent housing to people experiencing homelessness, thus ending their homelessness and serving as a platform from which they can pursue personal goals and improve their quality of life; and

WHEREAS, the funding will provide housing stabilization services, case management, and short- and/or medium-term rental assistance necessary to prevent an individual or family from moving into an emergency shelter or place not meant for human habitation; and

WHEREAS, to access the funding HUD requires the following actions, submission of Project Description, Program Budget, and required forms inclusive of the program certifications to HUD for final review by December 31, 2022, funding

commitment to the proposed eligible activities no later than September 30, 2025, funding must be fully expended by September 30, 2030; and

WHEREAS, Downtown Streets, Inc. will utilize EDI funds to provide housing and stabilization services to homeless individuals or families by providing assistance in the form of rental subsidies, utility deposit arrears, deposit assistance, flexible programmatic funds, and case management; and

WHEREAS, the City of Modesto will grant \$400,000 for the 3-year period to be divided annually on a cost reimbursement basis to support the program; and

WHEREAS, this is a new funding source from the U.S Department of Housing and Urban Development, and all funding will reside in a new fund; and

WHEREAS, this new funding source will bring an additional \$500,000 of funding to the City's Camp2Home initiative to support permanent housing and there will be no impact to the General Fund; and

WHEREAS, this item was considered by the Citizens Housing and Community Development Committee on October 13, 2022 and was approved to be forwarded to Council.

NOW, THEREFORE BE IT RESOLVED by the Council of the City of Modesto that it hereby accepts the Economic Development Initiative (EDI), Community Project Funding award, and awarding the Downtown Streets Team a grant of \$400,000 over three years to support the permanent housing component of Camp2Home.

BE IT FURTHER RESOLVED designating the City Manager, or his designee, to negotiate and execute any related program agreements, contracts or other documentation

required for implementation and acceptance of the Economic Development Initiative, Community Project Funding award.


The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 1st day of November, 2022, by Councilmember Kenoyer, who moved its adoption, which motion being duly seconded by Councilmember Escutia-Braaton, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Escutia-Braaton, Kenoyer, Madrigal, Ricci, Wright, Mayor Zwahlen

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST:

  
DIANE NAVARES-PEREZ, CMC,  
City Clerk

(SEAL)

APPROVED AS TO FORM:

BY:   
JOSE M. SANCHEZ, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2022-440**

**RESOLUTION AMENDING THE FISCAL YEAR 2022-2023 MULTI-YEAR FUND BUDGET TO ESTABLISH APPLICABLE REVENUE, EXPENSE AND TRANSFER BUDGETS FOR THE ECONOMIC DEVELOPMENT INITIATIVE (EDI), COMMUNITY PROJECT FUNDING AWARD FUNDS AND AUTHORIZING THE CITY MANAGER OR HIS DESIGNEE, TO TAKE THE NECESSARY STEPS TO IMPLEMENT THE PROVISIONS OF THIS RESOLUTION**

WHEREAS, on March 15, 2022 United States Congress passed the H.R. 2471 Consolidated Appropriations Act, 2022, Congress made available funding for grants for the Economic Development Initiative for the purpose of Community Project Funding/Congressionally Directed Spending; and

WHEREAS, these Community Project Funding (CPF) awards are administered by the U.S Department of Housing and Urban Development (HUD); and

WHEREAS, on July 18, 2022 the City was notified of an award through the Economic Development Initiative (EDI), Community Project Funding award, a congressionally legislated provision that directs specific approved funds to be awarded and spent on the City's Camp2Home initiative as identified by this authorizing legislation; and

WHEREAS, if approved the fiscal year 2022-2023 Multi-Year budget must be amended; and

WHEREAS, the project(s) will be funded with \$500,000 in Economic Development Initiative (EDI), Community Project Funding award funds; and

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby amends the fiscal year 2022-2023 multi-year fund budget to establish applicable revenue, expense and transfer budgets for the Economic Development

Initiative (EDI), Community Project Funding award funds.

BE IT FURTHER RESOLVED that the City Manager or his designee is 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 November, 2022, by Councilmember Kenoyer, who moved its adoption, which motion being duly seconded by Councilmember Escutia-Braaton, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Escutia-Braaton, Kenoyer, Madrigal, Ricci, Wright, Mayor Zwahlen

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST:   
DIANE NAYARBS-PEREZ, CMC,  
City Clerk

(SEAL)

APPROVED AS TO FORM:

BY:   
JOSE M. SANCHEZ, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2022-441**

**RESOLUTION APPROVING THE AGREEMENT WITH MICHAEL BAKER INTERNATIONAL FOR THE DEVELOPMENT OF THE 6TH CYCLE GENERAL PLAN HOUSING ELEMENT UPDATE, FOR AN AMOUNT NOT TO EXCEED \$349,790 AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE AGREEMENT.**

WHEREAS, California Government Code (GC) Section 65302 requires each city and county in the state to have a general plan, a “comprehensive, long-term” plan for the physical development or preservation of lands within or proximate to the jurisdiction’s boundaries. Pursuant to Subsection “c” of GC Section 65302, each general plan must include, at a minimum, elements addressing land use, transportation/circulation, conservation, open space, safety, noise, environmental justice, and housing; and

WHEREAS, the housing element is one of the nine elements that make-up the City’s General Plan; and

WHEREAS, the City’s 2015-2023 Housing Element is set to expire, and housing elements in the Stanislaus County region must be adopted by December 31, 2023 (with a 120-day grace period ending April 29, 2024.); and

WHEREAS, if certification is not achieved by the grace period, the City gets only one year from the adoption deadline to complete the necessary action to meet the City’s designated housing needs; and

WHEREAS, due to the level of complexity in preparing the housing element within these time constraints, the City has sought to engage with a consultation firm that specializes in preparation of the housing elements throughout the State; and

WHEREAS, on June 18, 2021, the Planning Division and in coordination with the Purchasing Division issued a formal request for proposals (RFP) to assist with the

development of a housing element and the City did not receive any bids with this request; and

WHEREAS, on December 21, 2021, with the approval of the Director of Finance, Purchasing Manager and Planning Manager, the Planning Division released a targeted informal RFP to firms that have experience in assisting with this endeavor. The informal bidding process closed on February 3, 2022; and

WHEREAS, of the seven (7) firms solicited in this process only two (2) firms returned proposals to the City for review. Michael Baker International was the lowest responsible bidder at \$349,790; and

WHEREAS, Modesto Municipal Code Section 8-3.203 generally requires all purchases that meet or exceed \$50,000 for material, equipment, or contractual services to follow the formal bid procedures. Due to the failure of the formal bidding process, the RFP was granted special consideration by the Purchasing Manager to be conducted informally; and

WHEREAS, the award and agreement for development of the 6th Cycle General Plan Housing Element Update for the Community and Economic Development Department to Michael Baker International conforms with Modesto Municipal Code Section 8-3.204 (d), "Purchasing Manager, in his or her discretion, determines that a process other than the formal bid procedure set forth in Section 8-3.203 will result in a procurement for the City at the lowest possible cost commensurate with the desired quality. Such alternatives may include, but are not limited to, a "two-step" procurement process or a procurement based solely on a technical evaluation."

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the agreement with Michael Baker International for the development of the 6th Cycle General Plan Housing Element Update, in an amount not to exceed \$349,790.

BE IT FURTHER RESOLVED that authorizing the City Manager or his designee to execute the agreements in a form approved by the City Attorney.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 1st day of November, 2022, by Councilmember Kenoyer, who moved its adoption, which motion being duly seconded by Councilmember Escutia-Braaton, was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmembers:	Escutia-Braaton, Kenoyer, Madrigal, Ricci, Wright, Mayor Zwahlen
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

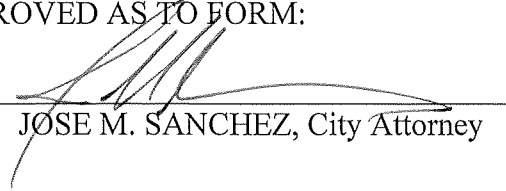
ATTEST.

  
DIANE NAYARES-PÉREZ, CMC,  
City Clerk

(SEAL)

APPROVED AS TO FORM:

BY:

  
JOSE M. SANCHEZ, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2022-442**

**RESOLUTION APPROVING THE EXTENSION OF THE EIGHT (8)  
COMMERCIAL CANNABIS RETAIL PERMITS FOR DISPENSARIES IN THE  
CITY FROM DECEMBER 19, 2022 TO JUNE 30, 2023 AND THUS ADJUSTING  
THE TWO-YEAR RENEWAL PERIOD FROM A CALENDAR YEAR TO A  
FISCAL YEAR WHICH RUNS FROM JULY TO JUNE.**

WHEREAS, the City Council has adopted a Commercial Cannabis Ordinance, Ordinance 3684-C.S., that established the City’s regulatory framework for commercial cannabis uses; and

WHEREAS, under Section 10-3.704(b) of the Ordinance, the City Council via Resolution 2017-525 established the total number of commercial cannabis permits issued by the City for cannabis dispensaries at a maximum of ten (10) permits; and

WHEREAS, under Section 10-3.704(g) and City Council Resolution 2017-525, the City Manager designed the application forms and procedures for commercial cannabis dispensary renewal permits, with input from the City Council Ad Hoc Cannabis Committee; and

WHEREAS, City Council via Resolution 2018-566 issued commercial cannabis permits to the following dispensary businesses:

- CR & D, Inc. 439 Maze Blvd.
- Authentic 209 426 McHenry Ave.
- Cookies 1944 W. Orangeburg Ave.
- People's Remedy - McHenry 2308 McHenry Ave.
- People’s Remedy- Planet 8ths 500 E. Glenn Ave.
- Doctor's Choice 2039 Yosemite Ave.
- Phenos Cooperative 1234 McHenry Ave.

- Medallion Wellness 1313 McHenry Ave.  
; and

WHEREAS, Modesto Municipal Code 10-3.704(f)(5) states that cannabis permits are valid for two years from the date of City Council approval, and that therefore the above-listed permits were set to expire on December 19, 2020, unless renewed; and

WHEREAS, all five of the above-listed dispensaries successfully opened within 18 months of permit issuance; and

WHEREAS, City Council via resolution 2020-485 through 2020-489 approved the permit renewals for the above listed dispensaries which are set to expire on December 19, 2022, unless renewed; and

WHEREAS, the City has conducted annual inspections and an audit of seven dispensaries currently in operation, and have determined that all seven dispensaries are operating in accordance with State law and the Modesto Municipal Code; and

WHEREAS, Doctor's Choice requested relocation of the business from 2039 Yosemite Ave. to 121 Phoenix Ave. on November 8, 2021; and

WHEREAS, the relocation request was heard at a properly noticed public hearing of the Cannabis Program and Permit Review Committee on October 13, 2022 with the committee recommending to forward to Council for approval of the relocation and the granting of a residential proximity waiver; and

WHEREAS, the relocation of Doctor's Choice was considered by the Council of the City of Modesto on October 25<sup>th</sup>, 2022 and approved via resolution 2022-433; and

WHEREAS, an extension of the current renewal period from December 19, 2022 to June 30, 2023 is necessary to better align the commercial cannabis retail permits with

the annual inspections and audits as well as to mirror the City of Modesto’s fiscal year which runs from July 1<sup>st</sup> to June 30<sup>th</sup>.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that pursuant to Modesto Municipal Code Section 10-3.704(f), an extension of eight (8) commercial cannabis retail dispensary permits for dispensaries at various locations in the city to June 30, 2023 is approved and the commercial cannabis retail dispensary permit two-year renewal period is adjusted from a calendar year to corresponding with the City of Modesto’s fiscal year:

- CR & D, Inc. 439 Maze Blvd.
- Authentic 209 426 McHenry Ave.
- Cookies 1944 W. Orangeburg Ave.
- People's Remedy - McHenry 2308 McHenry Ave.
- People’s Remedy- Planet 8ths 500 E. Glenn Ave.
- Doctor's Choice 121 Phoenix Ave.
- Phenos Cooperative 1234 McHenry Ave.
- Medallion Wellness 1313 McHenry Ave.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 1st day of November, 2022, by Councilmember Escutia-Braaton, who moved its adoption, which motion being duly seconded by Councilmember Madrigal, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Escutia-Braaton, Kenoyer, Madrigal, Ricci, Wright

NOES: Councilmembers: None

RECUSE: Councilmembers: Mayor Zwahlen

ABSENT: Councilmembers: None

ATTEST:   
DIANE NAYARES-PEREZ, CMC,  
City Clerk

(SEAL)

APPROVED AS TO FORM:

BY:   
JOSE M. SANCHEZ, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2022-443**

**RESOLUTION APPROVING THE GRANT OF A PERMANENT UTILITY  
EASEMENT TO PACIFIC GAS AND ELECTRIC COMPANY FOR  
ELECTRICAL FACILITIES WITHIN THE GRAYSON WELL 69 PROJECT  
AREA, LOCATED AT 1840 MARY STREET, GRAYSON, CA 95363, APN: 016-  
034-015, OWNED BY THE CITY OF MODESTO AND AUTHORIZING THE  
CITY MANAGER OR HIS DESIGNEE TO EXECUTE THE GRANT OF  
EASEMENT AND ALL RELATED DOCUMENTS**

WHEREAS, the City's contractor, W.M. Lyles Co, is currently constructing site improvements for the Grayson Well 69 production well, replacing Well 274; and

WHEREAS, Pacific Gas & Electric Company (PG&E) is requesting an easement prior to the installation of electrical facilities to service the well; and

WHEREAS, PG&E indicated to the City that in order for the well to receive power, an easement must be created to allow PG&E to service their facilities in the future; and

WHEREAS, the City and PG&E are mutually interested in resolving this discrepancy, which will additionally further the City's interests as it pertains to providing power to the new municipal well located in Grayson.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the Grant of a Permanent Utility Easement to Pacific Gas and Electric Company for electrical facilities within the Grayson Well 69 Project Area, located at 1840 Mary Street, Grayson, CA 95363, APN: 016-034-015, owned by the City of Modesto.

BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to execute the grant of easement documents for the Permanent Utility Easement 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 1st day of November, 2022, by Councilmember Kenoyer, who moved its adoption, which motion being duly seconded by Councilmember Escutia-Braaton, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Escutia-Braaton, Kenoyer, Madrigal, Ricci, Wright, Mayor Zwahlen

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST:   
DIANE NAYARES-PEREZ, CMC,  
City Clerk

(SEAL)

APPROVED AS TO FORM:

BY:   
JOSE M. SANCHEZ, City Attorney

**RANCHO EL PESCADERO**

**LEGEND:**

- GRANTOR'S PROPERTY LINE
- NEIGHBORING PARCEL LINE
- - - - - EXIST OVERHEAD ELECTRIC LINE
- - - - - APPROX. LOCATION OF 10FT WIDE UTILITY EASEMENT
- - - - - PROPOSED ELEC. SERVICE
- ⊞ - ELECTRIC TRANSFORMER  
14' X 14' PG&E PROPOSED PARCEL EASEMENT
- ⊞ - NEW ELECTRIC METER
- - EXIST JOINT UTILITY POLE
- ) - EXIST GUY ANCHOR
- NTS - NOT TO SCALE
- SCR - STANISLAUS COUNTY RECORDS



SW 1/4 OF NW 1/4 &  
NW 1/4 OF NW 1/4  
SECTION 26  
T4S, R7E, MDB&M

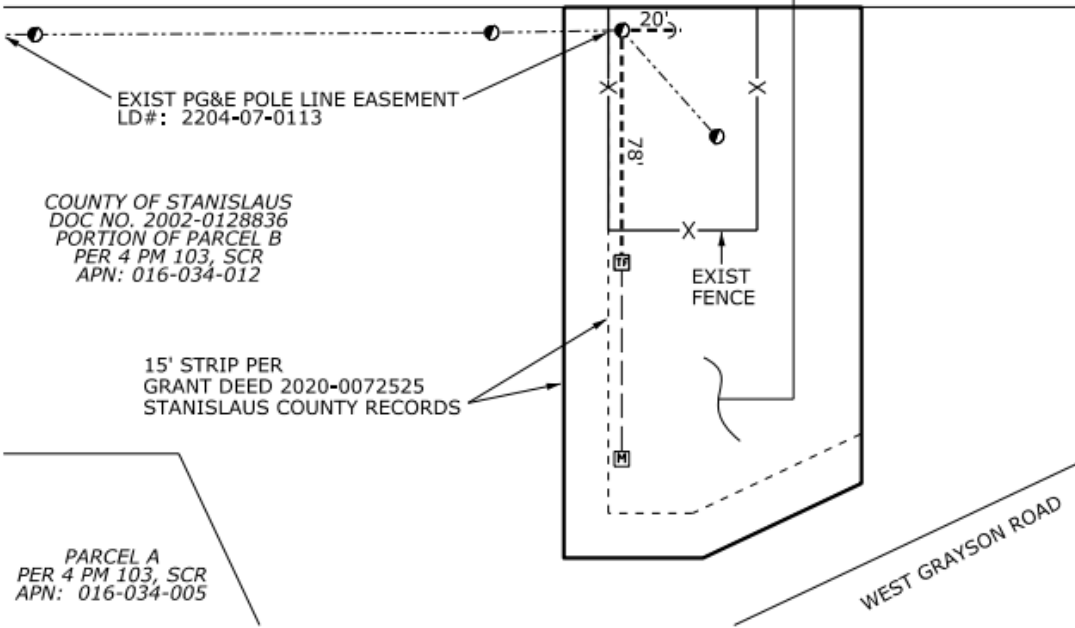
**NOTE:**

UNLESS OTHERWISE SHOWN ALL COURSES EXTEND TO OR ALONG ALL BOUNDARIES OR LINES

CHARLES ST

MARY ST

**CITY OF MODESTO**  
**PARCEL FOUR PER DOC. No. 2001-0097164, SCR**  
**DOC. No. 2015-0096392, SCR**  
**DOC No. 2020-0072525, SCR**  
**STANISLAUS COUNTY BOARD OF SUPERVISORS**  
**RESOLUTION NO. 2020-0203**  
**APN: 016-034-015**



Applicant: MIGUEL ALVEREZ UTILITY EASEMENT-CITY OF MODESTO				SCALE NTS	DATE 8-26-2022
SECTION (26)	TOWNSHIP (4S)	RANGE (7E)	MERIDIAN MDB&M	COUNTY OF: STANISLAUS CITY OF: PATTERSON	
PLAT MAP REFERENCES		ELECTRIC PLAT. DD1318 LD#: 2204-07-0113		PG&E	YOSEMITE DIVISION
				122263215	35321972
				AUTHORIZ	DRAWING NO.

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2022-444**

**RESOLUTION APPROVING THE FIRST AMENDMENT INCREASING THE AGREEMENT AMOUNT WITH MUNIQUIP INC., ROSEVILLE, CA, FOR THE PURCHASE OF WEMCO/HIDROSTAL PUMP PARTS AND/OR ELECTRICAL COMPONENTS BY \$170,237 FROM \$80,000, FOR A NEW TOTAL AMOUNT NOT TO EXCEED \$250,237 OVER FIVE YEARS AND AUTHORIZING THE DIRECTOR OF FINANCE OR HER DESIGNEE, TO EXECUTE THE AMENDEMNT.**

WHEREAS, the City of Modesto, Utilities Department, Wastewater Division utilizes the hidrostal pumps at thirty sanitary sewer/storm sewer lift stations throughout the City. The hidrostal pump design has proven to be robust and reliable; and

WHEREAS, the majority of these pumps have been installed in the sanitary sewer system; and

WHEREAS, On September 28, 2021, by Resolution No. 2021-378, Council authorized a Sole Source Purchase Agreement with Muniquip for Wemco/Hidrostal pump parts and/or electrical components for a two-year agreement with three (3) one-year extension options, for an estimated annual amount of \$16,000, and a total amount not to exceed \$80,000 over five years; and

WHEREAS, during the term of the current agreement, it has been determined that the initial requested amount for the Wastewater Division was underestimated due to price increases of needed replacement parts; and

WHEREAS, an amendment is needed to increase the annual amount of this agreement by \$30,000, from \$16,000, for a new estimated annual amount of \$46,000, with an estimated annual Consumer Price Index (CPI) increase of 7% for years three through five for a new total amount not to exceed \$250,237 over five years.


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

that it hereby approves a First Amendment to the agreement with Muniquip Inc., Roseville, CA, for the purchase of Wemco/Hidrostal pump parts and/or electrical components by \$170,237 from \$80,000, for a new total amount not to exceed \$250,237 over five years and authorizing the Director of Finance or her designee, to execute the amendment.

BE IT FURTHER RESOLVED that the Director of Finance, or her designee, is hereby authorized to execute the amendment, in a form approved by the City Attorney.


The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 1st day of November, 2022, by Councilmember Kenoyer, who moved its adoption, which motion being duly seconded by Councilmember Escutia-Braaton, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Escutia-Braaton, Kenoyer, Madrigal, Ricci, Wright, Mayor Zwahlen  
NOES: Councilmembers: None  
ABSENT: Councilmembers: None

ATTEST:   
DIANE NAYARES-PEREZ, CMC,  
City Clerk

(SEAL)

APPROVED AS TO FORM:

BY:   
JOSE M. SANCHEZ, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2022-445**

**RESOLUTION APPROVING AN AGREEMENT WITH WEST YOST ASSOCIATES, OF SACRAMENTO, CA, FOR ENGINEERING DESIGN SERVICES FOR THE GRAYSON WATER INFRASTRUCTURE PROJECT IN THE AMOUNT OF \$1,464,918 FOR THE IDENTIFIED SCOPE OF SERVICES, PLUS \$146,492 IN ADDITIONAL SERVICES, IF NEEDED, FOR A TOTAL AMOUNT NOT TO EXCEED \$1,611,410 AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE AGREEMENT**

WHEREAS, the City of Modesto owns and operates the water system facilities in the Town of Grayson; and

WHEREAS, as recommended in the City's Capital Improvement Program, the City has been actively engaged in improving service to the customers of Grayson; and

WHEREAS, a hydraulic assessment of the Grayson Water System was performed to evaluate the system's ability to meet the community's current and build-out demands; and

WHEREAS, this assessment identified the need to construct a new/replacement treatment system, storage tank, and booster pump station facility; and

WHEREAS, given the specialized expertise required for the design of tanks and pump stations, it was determined that a consultant would be necessary to provide design services for this project; and

WHEREAS, in accordance with Modesto Municipal Code 8-3.204(a) Exceptions to Formal Bidding Requirements, this agreement is for professional services and, therefore, exempt from the bid requirement.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves an agreement with West Yost Associates, of Sacramento, CA for Engineering Design Services for the Grayson Water Infrastructure Project in the amount

of \$1,464,918, for the identified scope of services, plus \$146,492 in additional services, if needed, for a total not to exceed amount of \$1,611,410.

BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to execute the agreement in a form approved by the City Attorney.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 1st day of November, 2022, by Councilmember Kenoyer, who moved its adoption, which motion being duly seconded by Councilmember Escutia-Braaton, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Escutia-Braaton, Kenoyer, Madrigal, Ricci, Wright, Mayor Zwahlen

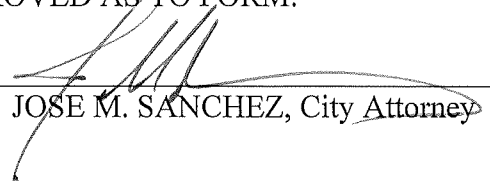
NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST:   
DIANE NAYARES-PEREZ, CMC,  
City Clerk

(SEAL)

APPROVED AS TO FORM:

BY:   
JOSE M. SANCHEZ, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2022-446**

**RESOLUTION AMENDING THE FISCAL YEAR 2022/23 CAPITAL  
IMPROVEMENT PROGRAM BUDGET IN THE AMOUNT OF \$703,461 TO BE  
TRANSFERRED INTO PROJECT 101081 FROM WATER FUND RESERVES IN  
ORDER TO FUND THE DESIGN PHASE OF THE GRAYSON WATER  
INFRASTRUCTURE PROJECT AND AUTHORIZING THE CITY MANAGER,  
OR HIS DESIGNEE TO IMPLEMENT THE PROVISIONS OF THIS  
RESOLUTION**

WHEREAS, certain budgetary transactions are necessary in the amount of \$703,461, in order to fund the Grayson Water Infrastructure Project; and

WHEREAS, the Fiscal Year 2022/23 Capital Improvement Program budget must be amended.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the amendment of the Fiscal Year 2022/23 Capital Improvement Program Budget in the amount of \$703,461.

BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to implement the provisions of this resolution.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 1st day of November, 2022, by Councilmember Kenoyer, who moved its adoption, which motion being duly seconded by Councilmember Escutia-Braaton, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Escutia-Braaton, Kenoyer, Madrigal, Ricci, Wright, Mayor Zwahlen

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST:   
DIANE NAYARES PEREZ, CMC,  
City Clerk

(SEAL)

APPROVED AS TO FORM:

BY:   
JOSE M. SANCHEZ, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2022-447**

**RESOLUTION APPROVING AN AGREEMENT WITH WEST YOST ASSOCIATES, OF SACRAMENTO, CA, FOR ENGINEERING SERVICES FOR THE DEVELOPMENT OF A GROUNDWATER WELL STRATEGY PLAN IN THE AMOUNT OF \$100,900 FOR THE IDENTIFIED SCOPE OF SERVICES, PLUS \$10,090 IN ADDITIONAL SERVICES, IF NEEDED, FOR A TOTAL AMOUNT NOT TO EXCEED \$110,990 AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE AGREEMENT**

WHEREAS, the City has completed or is nearing completion of the construction of several new wells as identified in the Water Engineering Study and Water Master Plan; and

WHEREAS, the City has also been actively destroying wells that have reached the end of their useful life or have experienced water quality issues; and

WHEREAS, the City is looking for a strategy to help guide future capital expenditures associated with the rehabilitation of existing wells and drilling of new wells to recover the lost production capacity; and

WHEREAS, given the level of effort, resources, and expertise required to develop the asset management framework and strategy plan, staff is recommending the use of an engineering consultant; and

WHEREAS, in accordance with Modesto Municipal Code 8-3.204(a) Exceptions to Formal Bidding Requirements, this Agreement is for professional services and, therefore, exempt from the bid requirement.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves an Agreement with West Yost Associates, of Sacramento, CA for Engineering Services for the development of a Groundwater Well Strategy Plan in the

amount of \$100,900, for the identified scope of services, plus \$10,090 in additional services, if needed, for a total not to exceed amount of \$110,990.

BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to execute the agreement in a form approved by the City Attorney.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 1st day of November, 2022, by Councilmember Kenoyer, who moved its adoption, which motion being duly seconded by Councilmember Escutia-Braaton, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Escutia-Braaton, Kenoyer, Madrigal, Ricci, Wright, Mayor Zwahlen

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST:

  
DIANE NAYARES-PEREZ, CMC,  
City Clerk

(SEAL)

APPROVED AS TO FORM:

BY:

  
JOSE M. SANCHEZ, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2022-448**

**RESOLUTION AMENDING THE FISCAL YEAR 2022/23 MULTI-YEAR  
PROGRAM BUDGET IN THE AMOUNT OF \$126,125 TO BE TRANSFERRED  
INTO THE PROJECT FROM WATER FUND RESERVES IN ORDER TO FUND  
THE DEVELOPMENT OF A GROUNDWATER WELL STRATEGY PLAN**

WHEREAS, certain budgetary transactions are necessary in the amount of \$126,125, in order to fund the development of a Groundwater Well Strategy Plan; and

WHEREAS, the Fiscal Year 2022/23 Multi-Year Program Budget must be amended.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the amendment of the Fiscal Year 2022/23 Multi-Year Program Budget in the amount of \$126,125.

BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to implement the provisions of this resolution.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 1st day of November, 2022, by Councilmember Kenoyer, who moved its adoption, which motion being duly seconded by Councilmember Escutia-Braaton, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Escutia-Braaton, Kenoyer, Madrigal, Ricci, Wright, Mayor Zwahlen

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST:   
DIANE NAYARES-PEREZ, CMC,  
City Clerk

(SEAL)

APPROVED AS TO FORM:

BY:   
JOSE M. SANCHEZ, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2022-449**

**RESOLUTION APPROVING AN AMENDMENT TO THE MODESTO URBAN AREA GENERAL PLAN TO CHANGE THE LAND USE DESIGNATION OF 25 ACRES FROM REGIONAL COMMERCIAL (RC) TO RESIDENTIAL (R), PROPERTY LOCATED NORTH OF MABLE AVENUE AND EAST OF OAKDALE ROAD.**

WHEREAS, on March 5, 2019, the City Council of the City of Modesto certified the Final Master Environmental Impact Report (“Master EIR”) (SCH No. 2014042081) for the Modesto Urban Area General Plan; 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, 2003-101, 2003-122, 2004-233, 2005-70, 2007-066, 2007-599, 2008-142, 2008-583, 2009-419, 2011-253, 2011-254, 2011-435, 2012-430, 2014-17, 2014-422, 2015-262, 2016-34, 2017-21, 2019-109, 2022-100 and 2022-193, 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; and

WHEREAS, the Arcadia Development Company has applied for an amendment to the General Plan to change the land use designation of 25 acres from Regional

Commercial (RC) to Residential (R), property located north of Mable Avenue and east of Oakdale Road; and

WHEREAS, the Community & Economic Development Department has analyzed the proposed amendment and concluded that the amendment to the Land Use Diagram would allow for the development of new residential uses consistent with the Residential land use designation; and

WHEREAS, the City of Modesto prepared an Initial Study (Environmental Assessment C&ED/EA 2022-20) that evaluated the environmental impacts of the project, and based on the Initial Study conclusion that there would not be any significant impacts on the environment, a Negative Declaration has been prepared for the project; and

WHEREAS, on October 3, 2022, the Planning Commission held a duly noticed public hearing in the Tenth Street Place Chambers located at 1010 Tenth Street, Modesto, California, relating to this proposed amendment to the Modesto Urban Area General Plan to change the land use designation of 25 acres from Regional Commercial (RC) to Residential (R), property located north of Mable Avenue and east of Oakdale Road; and

WHEREAS, after said public hearing, the Planning Commission adopted Resolution No. 2022-25, recommending to the City Council an amendment to the Modesto Urban Area General Plan to change the land use designation of 25 acres from Regional Commercial (RC) to Residential (R); and

WHEREAS, said matter was set for a public hearing of the City Council to be held on November 1, 2022, 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 Land Use Diagram.

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 General Plan to as described in **Exhibit “A”, attached** hereto and incorporated herein by reference, is required for the public health, safety, and welfare of the citizens of Modesto.

BE IT FURTHER RESOLVED by the Council of the City of Modesto that it hereby adopts the proposed amendment to the Urban Area General Plan as described in **Exhibit “A”, attached** hereto and incorporated herein by reference.

BE IT FURTHER RESOLVED by the Council of the City of Modesto that the Community and Economic Development Department Director is hereby authorized and directed to forward certified copies of this resolution and said amendment to the Urban Area 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 a regular meeting of the Council of the City of Modesto held on the 1st day of November, 2022, by Vice Mayor Wright, who moved its adoption, which motion being duly seconded by Councilmember Kenoyer, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Escutia-Braaton, Kenoyer, Madrigal, Ricci, Wright, Mayor Zwahlen

NOES: Councilmembers: None

ABSENT: Councilmembers: None

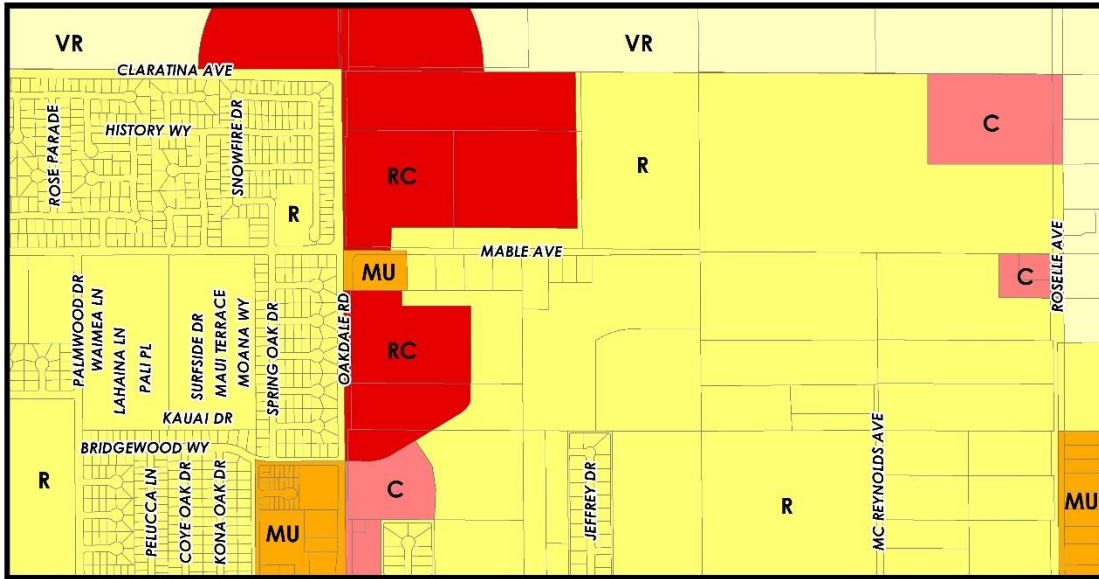
ATTEST:   
DIANE NAYARES-PEREZ, CMC,  
City Clerk

(SEAL)

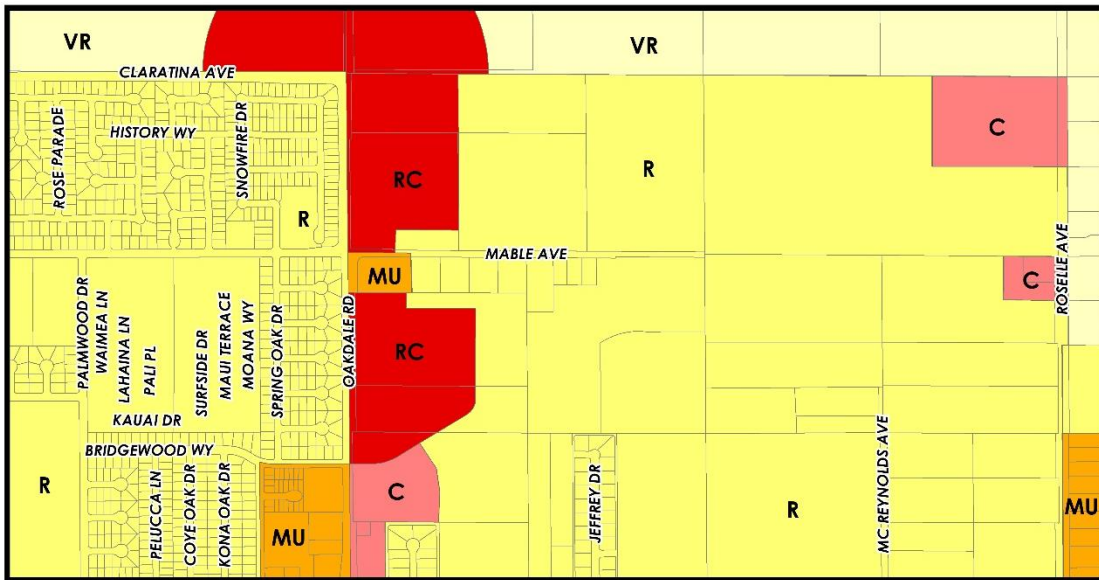
APPROVED AS TO FORM:

BY:   
JOSE M. SANCHEZ, City Attorney

# EXHIBIT A



**CURRENT GENERAL PLAN LAND USE**



**GENERAL PLAN LAND USE - AS AMENDED**

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2022-450**

**RESOLUTION APPROVING SPECIFIC PLAN AMENDMENT NO. 3 TO  
THE TIVOLI SPECIFIC PLAN, TO CHANGE THE LAND USE DESIGNATION  
OF 25 ACRES FROM REGIONAL SERVING COMMERCIAL (RSC) TO  
RESIDENTIAL (R) AND \*27 ACRES FROM MEDIUM DENSITY  
RESIDENTIAL (MDR) TO LOW DENSITY RESIDENTIAL (LDR) (ARCADIA  
DEVELOPMENT COMPANY)**

WHEREAS, on February 26, 2008, the City Council by Ordinance No. 3479-C.S., adopted the Tivoli 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, on September 7, 2016, the City Council by Resolution No. 97-631 adopted Amendment No. 1 to the Tivoli Specific Plan to include minor land use adjustments regarding the relocation of the school site with the overall density and intensity remaining essentially the same, minor internal street alignment adjustments, removal of four roundabouts, and various clean-up and technical changes to the Specific Plan; and

WHEREAS, on March 21, 2022, the Director of Community and Economic Development administratively approved Amendment No. 2 to the Tivoli Specific Plan as allowed by Section 9.3.4.1 of the Specific Plan, to amend and update street cross-section details with associated minor text changes; and

WHEREAS, the Arcadia Development Company has filed an application to amend the Land Use Diagram of the Specific Plan, to change the land use designation of 25 acres located north of Mable Avenue, east of Oakdale Road from Regional Serving Commercial (RSC) to the designation of Low Density Residential 13 (LDR 13), and to

change the land use designation of \*27 acres located north of the existing City of Modesto water well and storage site and southeast of future Aria Way from Medium Density Residential 2 and Medium Density Residential 3 to the designation of Low Density Residential 15 (LDR 15), and associated text changes; and

WHEREAS, said application was made concurrently with a proposed amendment to the General Plan Land Use Diagram to amend the land use designation of 25 acres from Regional Commercial (RC) to Residential (R) (project GPA-22-002); and

WHEREAS, on April 18, 2022 the proposed Specific Plan Amendment was referred to the Stanislaus and Modesto School Districts, Modesto Irrigation District, Local Agency Formation Commission, County Planning and Community Development, and the Environmental Resources Director, for a 45-day referral period in accordance with Government Code sections 65453 and 65352; and

WHEREAS, the City of Modesto prepared an Initial Study/Negative Declaration, Environmental Assessment No. EA/C&ED 2022-20, that evaluated the environmental impacts of the project, and based on the Initial Study conclusion that there would not be any significant impacts on the environment, a Negative Declaration has been prepared for the project; and

WHEREAS, on October 3, 2022, at 6:00 p.m. the Planning Commission held a duly noticed public hearing in the Tenth Street Place Chambers located at 1010 Tenth Street, Modesto, California, at which hearing evidence both oral and documentary was received and considered concerning the proposed amendment to the Tivoli Specific Plan; and

WHEREAS, after said public hearing, the Modesto City Planning Commission by Resolution No. 2022-26, recommended to the City Council approval of an amendment the Land Use Diagram of the Specific Plan, to change the land use designation of 25 acres located north of Mable Avenue, east of Oakdale Road from Regional Serving Commercial (RSC) to the designation of Low Density Residential 13 (LDR 13), and to change the land use designation of \*27 acres located north of the existing City of Modesto water well and storage site and southeast of future Aria Way from Medium Density Residential 2 and Medium Density Residential 3 to the designation of Low Density Residential 15 (LDR 15); and

WHEREAS, said matter was set for a public hearing of the City Council to be held on November 1, 2022, in the Tenth Street Place Chambers located at 1010 Tenth Street, Modesto, California, at which date and time said duly noticed public hearing was held.

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

1. The proposed Amendment No. 3 to the Tivoli Specific Plan, to change the land use designation of 25 acres located north of Mable Avenue, east of Oakdale Road from Regional Serving Commercial (RSC) to the designation of Low Density Residential 13 (LDR 13), and to change the land use designation of \*27 acres located north of the existing City of Modesto water well and storage site and southeast of future Aria Way from Medium Density Residential 2 and Medium Density Residential 3 to the designation of Low Density Residential 15 (LDR 15) would be consistent with the Modesto Urban Area General Plan as amended because the amendment would result in new residential development consistent with the General Plan's Residential designation of the sites.
2. The reduction in residential density by the proposed amendment of Medium Density Residential 2 and Medium Density Residential 3 to Low Density Residential 15 (LDR 15) would be offset by the proposed amendment of Regional Serving Commercial (RSC) to Low Density

Residential 13 (LDR 13) in accordance to Senate Bill 330 (“Housing Crisis Act of 2019”).

3. The proposed amendments would be in conformance with the Specific Plan’s polices and standards because any future development as a result of the amendments would be required to adhere to the development standards and design guidelines of the Specific Plan, and be consistent with the adopted Facilities Master Plan and Infrastructure Financing Plan.
4. A Negative Declaration, Environmental Assessment No. EA/C&ED No. 2022-20, was prepared by the City of Modesto that analyzed the proposed amendments and determined that, on the basis of the whole record before it, there is no substantial evidence that the amendments will have a significant effect on the environment and that a Negative Declaration be adopted.

BE IT FURTHER RESOLVED by the Council of the City of Modesto that the Tivoli Specific Plan is hereby amended to change the land use designation of 25 acres located north of Mable Avenue, east of Oakdale Road from Regional Serving Commercial (RSC) to the designation of Low Density Residential 13 (LDR 13), and to change the land use designation of \*27 acres located north of the existing City of Modesto water well and storage site and southeast of future Aria Way from Medium Density Residential 2 and Medium Density Residential 3 to the designation of Low Density Residential 15 (LDR 15), as shown on **Exhibit "A" attached** hereto and incorporated herein by reference.

BE IT FURTHER RESOLVED that 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.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 1st day of November, 2022, by Councilmember Escutia-Braaton, who moved its adoption, which motion being duly seconded by Vice Mayor Wright, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Escutia-Braaton, Kenoyer, Madrigal, Ricci, Wright, Mayor Zwahlen

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST:   
DIANE NAYARÉS-PÉREZ, CMC,  
City Clerk

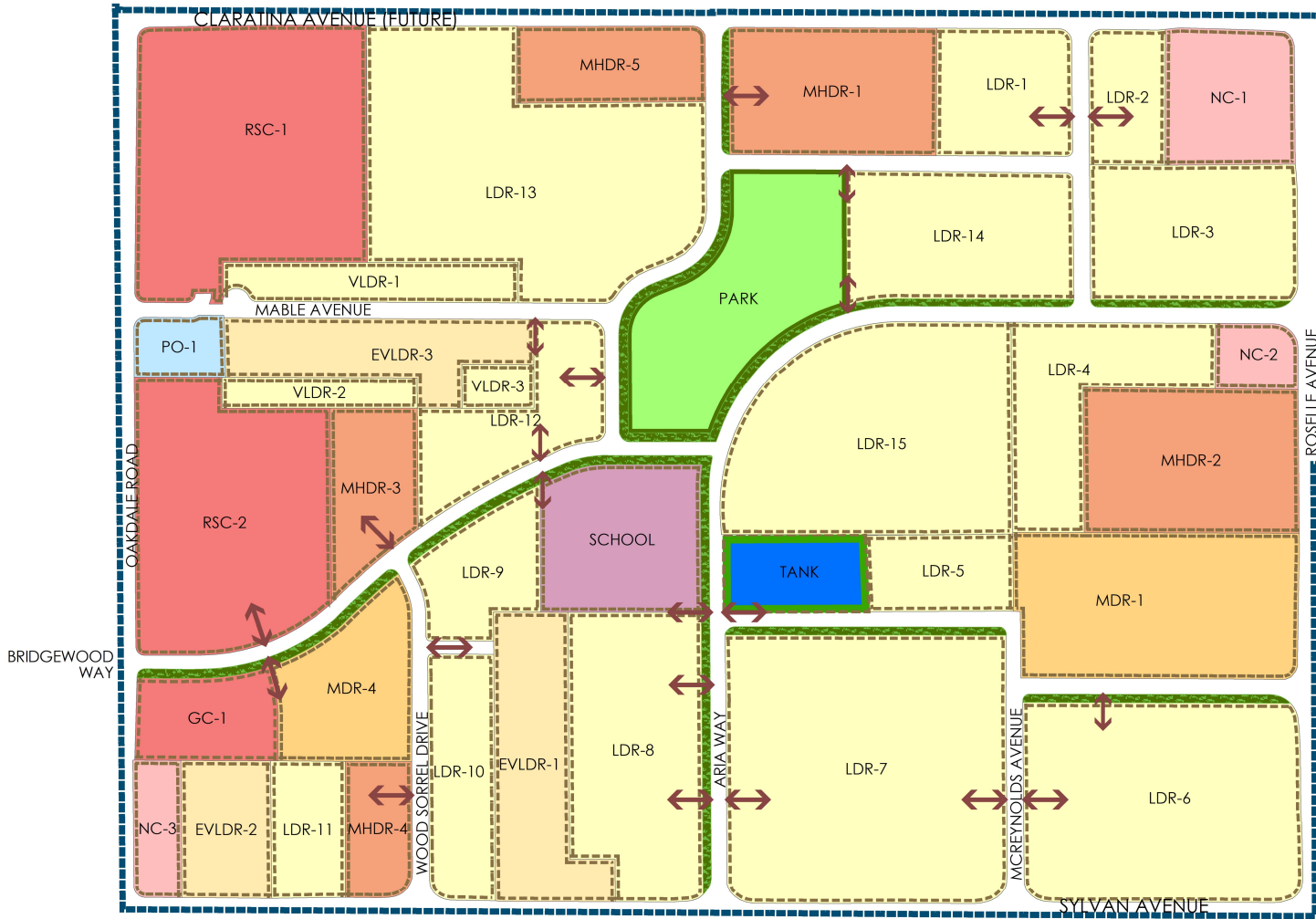
(SEAL)

APPROVED AS TO FORM:

BY:   
JOSE M. SANCHEZ, City Attorney

**Exhibit A**  
**Amendment No. 3 to the Tivoli Specific Plan**

# ATTACHMENT A



## LAND USE

- VERY LOW DENSITY RESIDENTIAL (VLDR) (2-3 DU/AC)
- LOW DENSITY RESIDENTIAL (LDR) (4-8) DU/AC
- MEDIUM DENSITY RESIDENTIAL (MDR) (8-18 DU/AC)
- MEDIUM HIGH DENSITY RESIDENTIAL (MHDR) (18-24 DU/AC)
- EXISTING OR NEW NEIGHBORHOOD COMMERCIAL (NC)
- REGIONAL SERVING COMMERCIAL (RSC)
- PROFESSIONAL OFFICE (PO)
- ELEMENTARY SCHOOL SITE
- NEIGHBORHOOD PARK/STORM BASIN
- PASEO
- LOCAL RESIDENTIAL STREET/POTENTIAL ACCESS POINT
- LAND USE AREA DESIGNATION
- PROJECT BOUNDARY

## EXISTING LAND USES

- EXISTING VERY LOW DENSITY RESIDENTIAL (EVLDR) (1-3 DU/AC)
- PUBLIC INFRASTRUCTURE: WATER TANK & WELL SITE (CITY OF MODESTO) WITH LANDSCAPE BUFFER



TIVOLI SPECIFIC PLAN  
MODESTO, CALIFORNIA

LAND USE DIAGRAM  
AMENDED 2022

November 1, 2022

CREDIT: O'DELL ENGINEERING, DAHLIN GROUP

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2022-451**

**RESOLUTION ADOPTING A NEGATIVE DECLARATION FOR A GENERAL PLAN AMENDMENT TO CHANGE THE LAND USE DESIGNATION OF 25 ACRES FROM REGIONAL COMMERCIAL (RC) TO RESIDENTIAL (R), PROPERTY LOCATED NORTH OF MABLE AVENUE AND EAST OF OAKDALE ROAD, TOGETHER WITH AMENDMENT NO. 3 TO THE TIVOLI SPECIFIC PLAN TO CHANGE THE LAND USE DESIGNATION OF 25 ACRES FROM REGIONAL SERVING COMMERCIAL (RSC) TO LOW DENSITY RESIDENTIAL (LDR) AND \*27 ACRES FROM MEDIUM DENSITY RESIDENTIAL (MDR) TO LOW DENSITY RESIDENTIAL (LDR) IN THE LAND USE DIAGRAM OF THE SPECIFIC PLAN.**

WHEREAS, the Arcadia Development Company has applied for an amendment to the General Plan to change the land use designation of 25 acres from Regional Commercial (RC) to Residential (R), property located north of Mable Avenue and east of Oakdale Road; and

WHEREAS, the applicant also proposed Amendment No. 3 to the Tivoli Specific Plan to change the land use designation of 25 acres located north of Mable Avenue and east of Oakdale Road from Regional Serving Commercial (RSC) to the land use designation of Low Density Residential 15 (LDR-15) and \*27 acres from Medium Density Residential (MDR) to Low Density Residential (LDR-14) to allow for the development of residential uses; and

WHEREAS, Section 15070 of the CEQA Guidelines relating to Initial Study/ Negative Declaration provides for a lead agency to prepare an Initial Study on any proposed project to analyze whether the project may cause any significant effect on the environment; and

WHEREAS, the City of Modesto Department of Community and Economic Development has prepared an Initial Study/ Negative Declaration (EA/C&ED No. 2022-20) as provided for by CEQA; and

WHEREAS, a 20-day public review period for the proposed Initial Study/ Negative Declaration began on August 31, 2022, and ended on September 19, 2022; and

WHEREAS, the City received no public comments on the draft Initial Study/Negative Declaration; and

WHEREAS, said matter was considered by the Planning Commission at a duly noticed public hearing which was held on October 3, 2022, whereupon the Planning Commission considered the Initial Study/Negative Declaration and recommended that the City Council adopt the Negative Declaration; and

WHEREAS, said matter was considered by the City Council at a duly noticed public hearing which was held on November 1, 2022, 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, Environmental Assessment No. EA/C&ED 2022-20, a copy of which is on file with the Community and Economic Development Department, Third Floor, 1010 Tenth Street, Modesto, California, and **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 Initial Study/Negative Declaration prepared for the proposed project shows there is no substantial evidence, in light of the whole record before the City, that the project may have significant environmental effects;

2. The Initial Study/Negative Declaration reflects the independent judgment of the lead agency;
3. The Initial Study, Environmental Assessment No. EA/C&ED 2022-20, provides the substantial evidence to support findings 1-2, noted above.

BE IT FURTHER RESOLVED that 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.


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 November, 2022, by Vice Mayor Wright, who moved its adoption, which motion being duly seconded by Councilmember Escutia-Braaton, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Escutia-Braaton, Kenoyer, Madrigal, Ricci, Wright, Mayor Zwahlen

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST:   
DIANE NAYARES-PEREZ, CMC,  
City Clerk

(SEAL)

APPROVED AS TO FORM:

BY:   
JOSE M. SANCHEZ, City Attorney

**EXHIBIT A**

Initial Study

EA/C&ED No. 2022-20

**Negative Declaration  
C&ED /EA No. 2022-20**

**Checklist for the  
Tivoli Specific Plan Final EIR  
SCH No. 2005072125**

**General Plan Amendment to Change the Land Use  
Designation of 28 acres from Regional Commercial  
(RC) to Village Residential (VR)  
and  
Amendment to the land use diagram of the  
Tivoli Specific Plan,  
Tivoli Area Plan No. 7,  
Arcadia - Tivoli Vesting Tentative Subdivision Map,  
and Arcadia Final Development Plan**

To facilitate the development of 141 single-family residential lots and  
seven landscape/PUE lots.  
(GPA-22-002/SPA-22-001/AREA-22-001/TSM-22-001/FDP-22-002)

*Prepared for:*

City of Modesto  
P.O. Box 642  
Modesto, CA 95353  
Contact: Katharine Martin, Senior Planner  
209/209-577-5465  
kamartin@modestogov.com

*Prepared by:*

City of Modesto  
Community & Economic Development Department  
209/577-5267

August 4, 2022

## CEQA Environmental Checklist

### PROJECT DESCRIPTION AND BACKGROUND

**Project Title:**

GPA-22-002/SPA-22-001/AREA-22-001/TSM-22-001/FDP-22-002:

Amendment to Land Use Diagram of City of Modesto General Plan, Amendment to land use diagram of the Tivoli Specific Plan, Area Plan for Tivoli Specific Plan Area No. 7, with Vesting Tentative Subdivision Map and Final Development Plan (Arcadia Development Company).

**Lead agency name and address:**

City of Modesto, 1010 Tenth Street, Suite 3300, Modesto CA 95354

**Contact person and phone number:**

Katharine Martin, Senior Planner, 209-577-5267

Paul Liu, Principal Planner, 209-577-5267

**Project Location:**

Tivoli Specific Plan Area No. 7, east of future Aria Drive, north of Sylvan Ave, northwest of McReynolds Avenue

**Project applicant's name and address:**

Arcadia Development Company, Inc.

PO Box 5368; San Jose, CA 95150

408-961-8125

**General plan description:**

Regional Commercial (RC) and Village Residential (VR)

**Zoning:**

Specific Plan (SP), Tivoli Specific Plan

**Description of project** (Describe the whole action involved, including but not limited to later phases of the project, and any secondary, support, or off-site features necessary for its implementation.):

- Amendment of General Plan Land Use Diagram, change 25 acres total from Regional Commercial (RC) to Residential (R)
- Amendment to land use diagram of the Tivoli Specific Plan, change 21.1 acres from Medium Density Residential to Low Density Residential; 11 acres from Medium-High Density Residential to Low Density Residential; 25 acres from Regional Serving Commercial (RSC) to Low Density Residential.
- Area Plan for Tivoli Specific Plan Area No. 7, together with Final Development Plan and Vesting Tentative Subdivision Map to develop 29.3 acres into 141 single-family residential lots.

The project was previously studied by the Tivoli Specific Plan Final EIR ("Tivoli FEIR"), State Clearinghouse No. 2005072125, certified by the City of Modesto City Council on February 26, 2008 by Resolution No. 2008-141. This Initial Study references and uses information from the Tivoli FEIR and the City of Modesto Urban Area General Plan Master EIR (SCH 2014042081) where applicable.

Note: the Tivoli FEIR references the 2008 Urban Area General Plan MEIR (SCH 2007072023), since updated to the 2014 MEIR in use with this checklist. Some applicable mitigation measures from the 2008 MEIR have been re-identified in the 2014 MEIR with new numbering, and such measures will be applied to the project as identified in the 2014 MEIR.

**Surrounding land uses and setting** (briefly describe the project's surroundings):

North: SP Zone as part of the Tivoli Specific Plan area; pasture land.

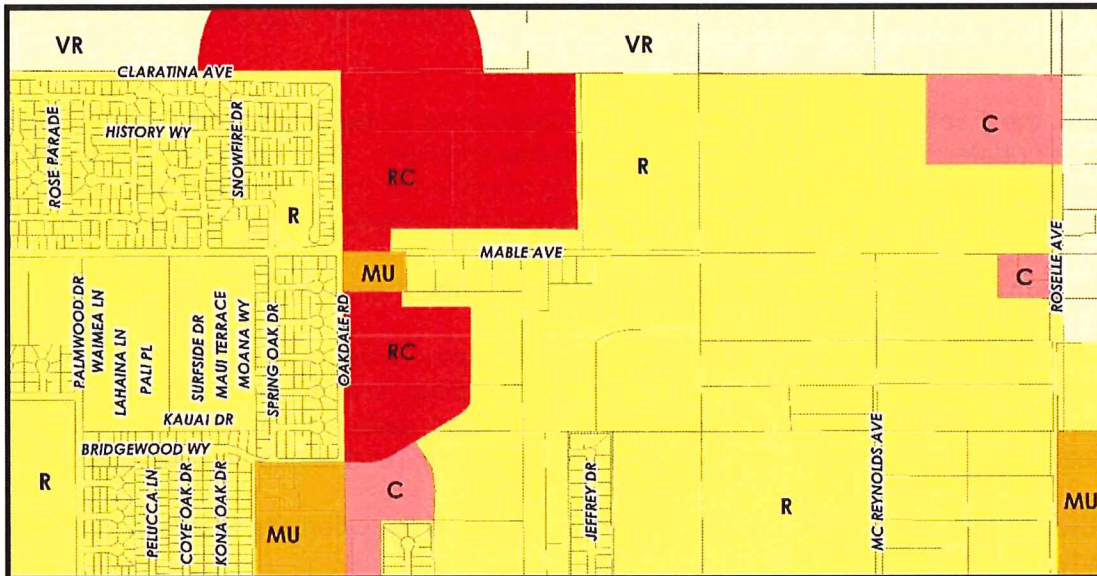
South: SP Zone as part of the Tivoli Specific Plan area; rural residential uses, City well site.

East: SP Zone as part of the Tivoli Specific Plan area; rural residential uses, pasture land.

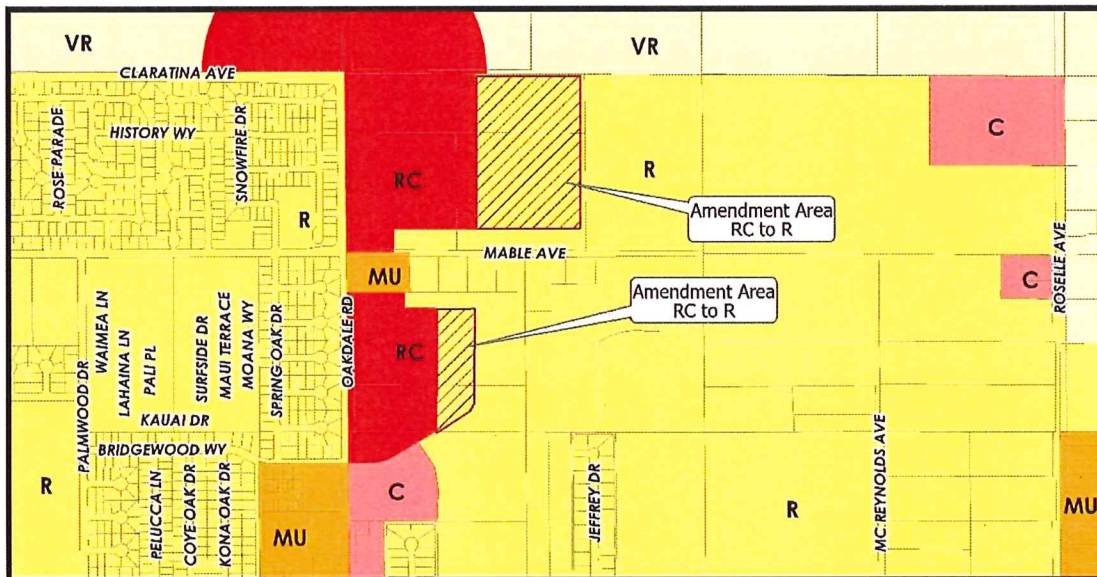
West: SP Zone as part of the Tivoli Specific Plan area; rural residential uses, pasture land.

**Other public agencies whose approval is required** (e.g. permits, financial approval, or participation agreements):

None.



**CURRENT GENERAL PLAN LAND USE**

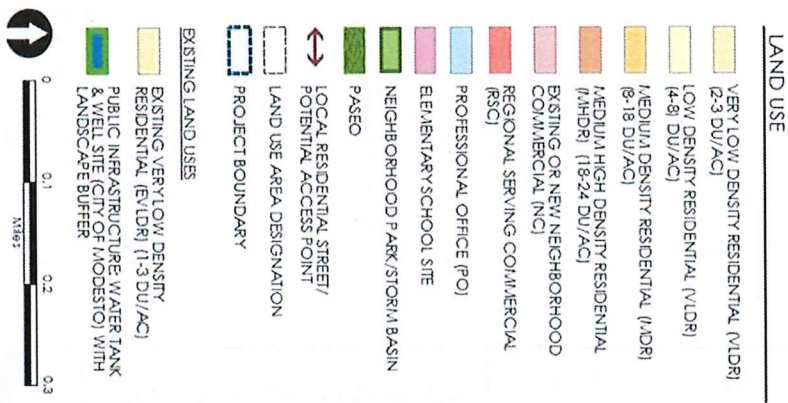
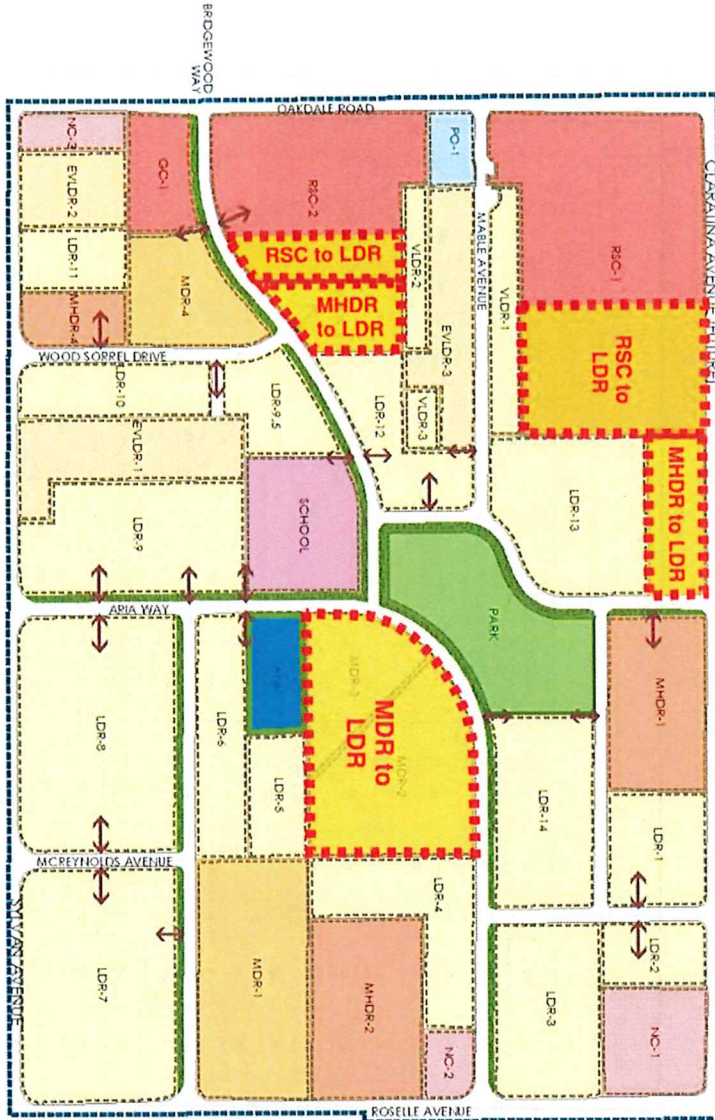


**PROPOSED GENERAL PLAN LAND USE**

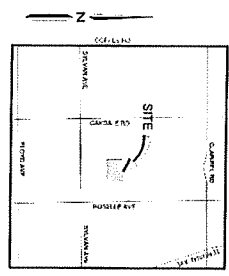
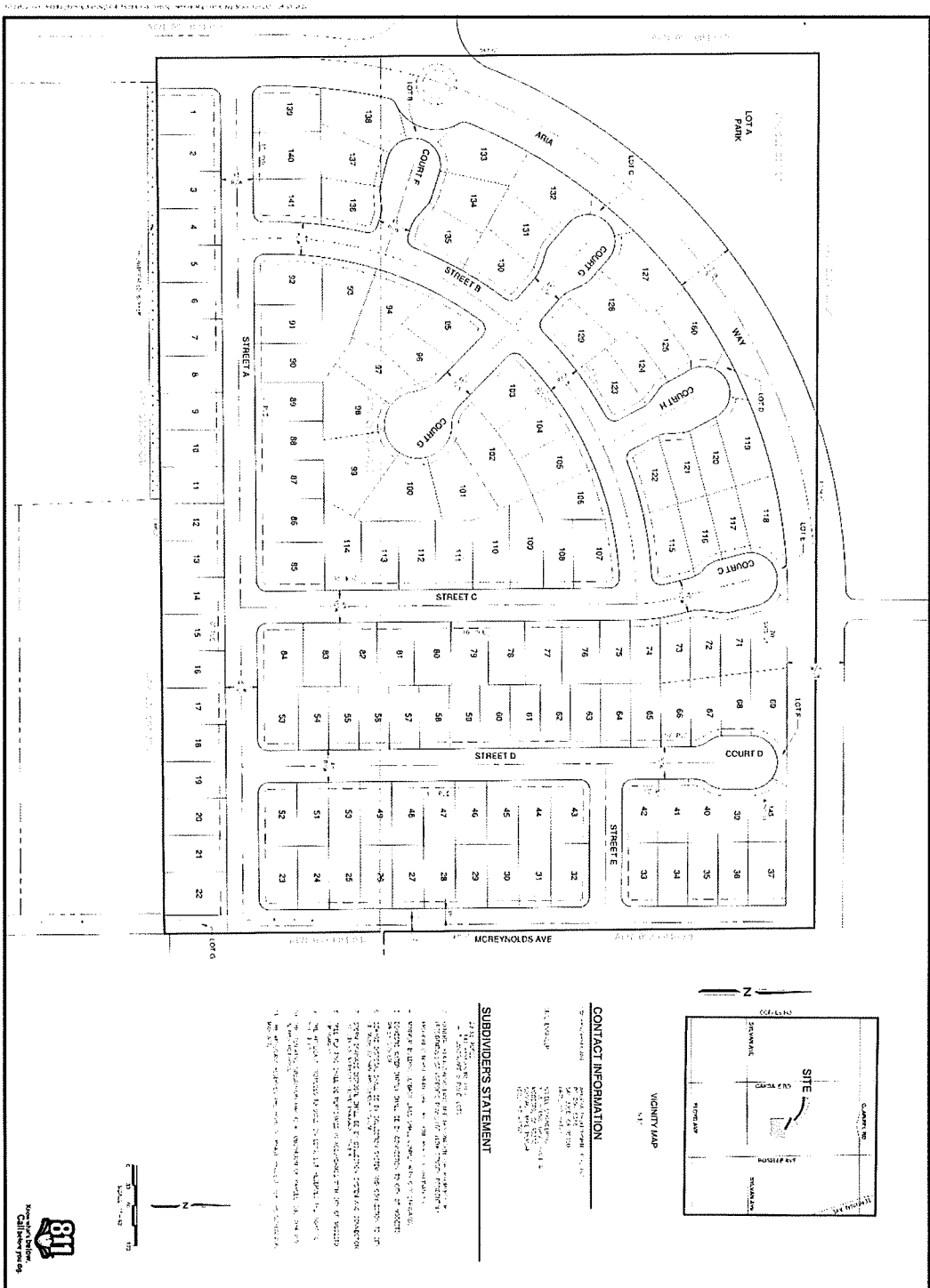
**GENERAL PLAN AMENDMENT AREA  
GPA-22-001**

TIVOLI SPECIFIC PLAN  
MODESTO, CALIFORNIA

LAND USE DIAGRAM  
AMENDED 2016



SPECIFIC PLAN AMENDMENT AREA  
SPA-22-001



**CONTACT INFORMATION**

Project Name: Arcadia Property (Tivoli)  
 Project Address: 1100 McReynolds Ave, Modesto, CA 95231  
 Project Phone: (209) 533-1100  
 Project Email: info@arcadiaproperty.com

**SUBDIVIDER'S STATEMENT**

I, the undersigned, being duly qualified under the laws of the State of California, do hereby certify that the foregoing is a true and correct copy of the Vesting Tentative Subdivision Map for the above described property, as shown on the attached map, and that the same has been prepared in accordance with the provisions of the Subdivided Lands Act, Chapter 479 of the Statutes of the State of California, and the rules and regulations thereunder, and that the same is a true and correct copy of the original map as filed with the County Clerk of the County of San Joaquin, California, on this 1st day of August, 2022.

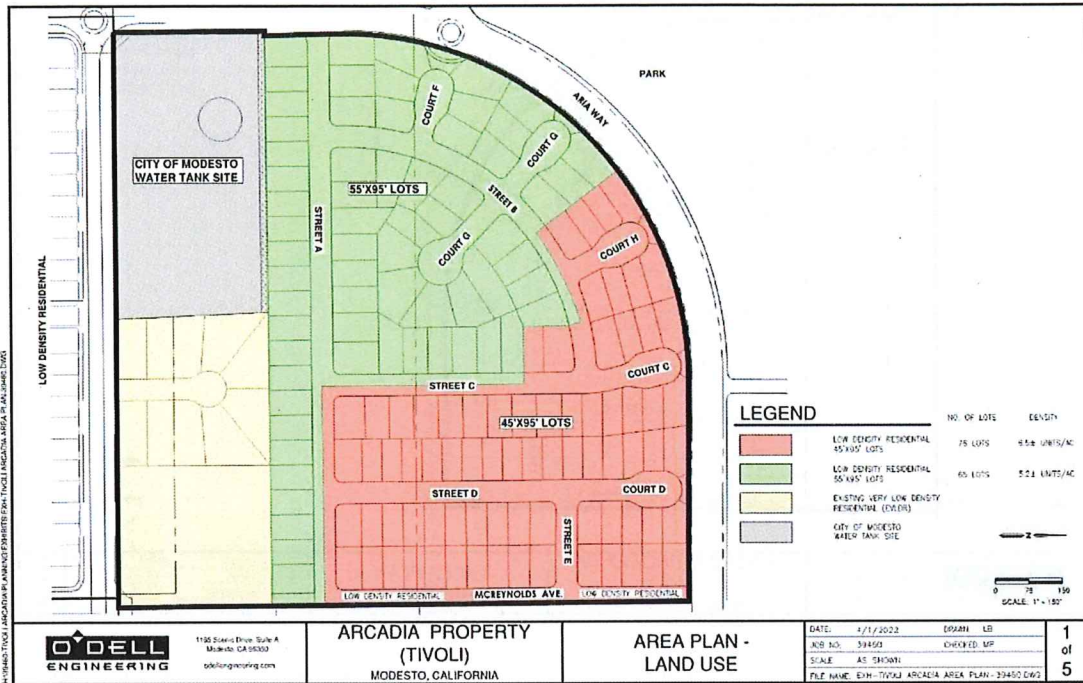
**ARCADIA PROPERTY (TIVOLI)**

MODESTO, CALIFORNIA

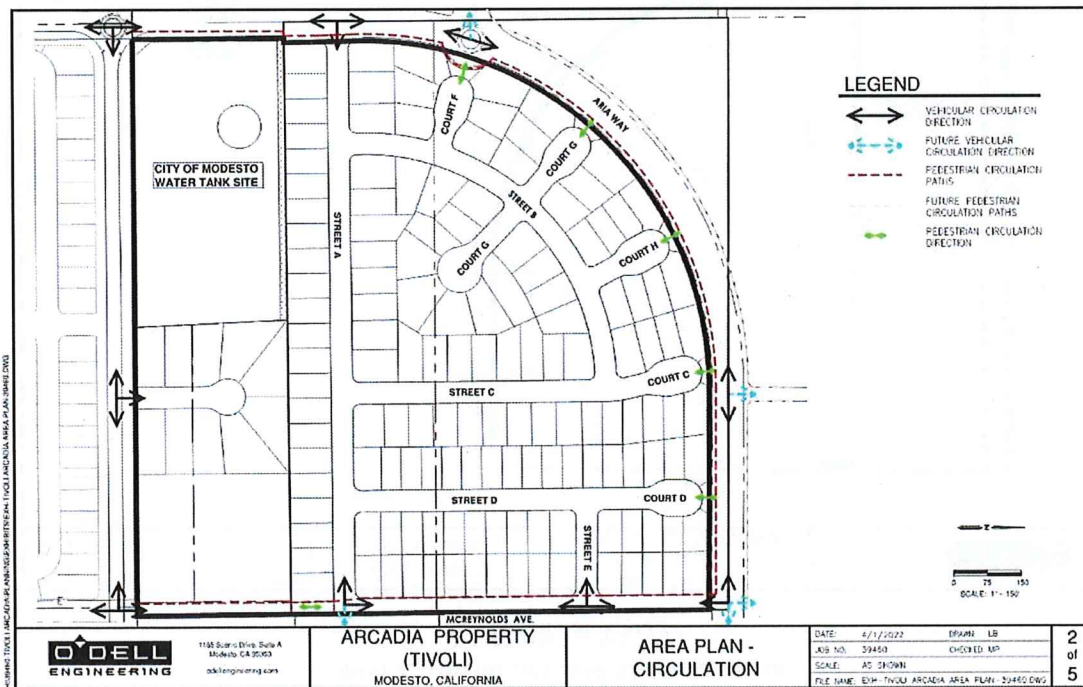
**VESTING TENTATIVE SUBDIVISION MAP  
TSM-22-001**

**ODELL ENGINEERING**  
 1100 McReynolds Ave  
 Modesto, CA 95231  
 (209) 533-1100  
 info@odell-engineering.com

DATE	DESCRIPTION
08/01/2022	PREPARED BY: [Name]
08/01/2022	CHECKED BY: [Name]
08/01/2022	APPROVED BY: [Name]
08/01/2022	DATE OF ISSUE

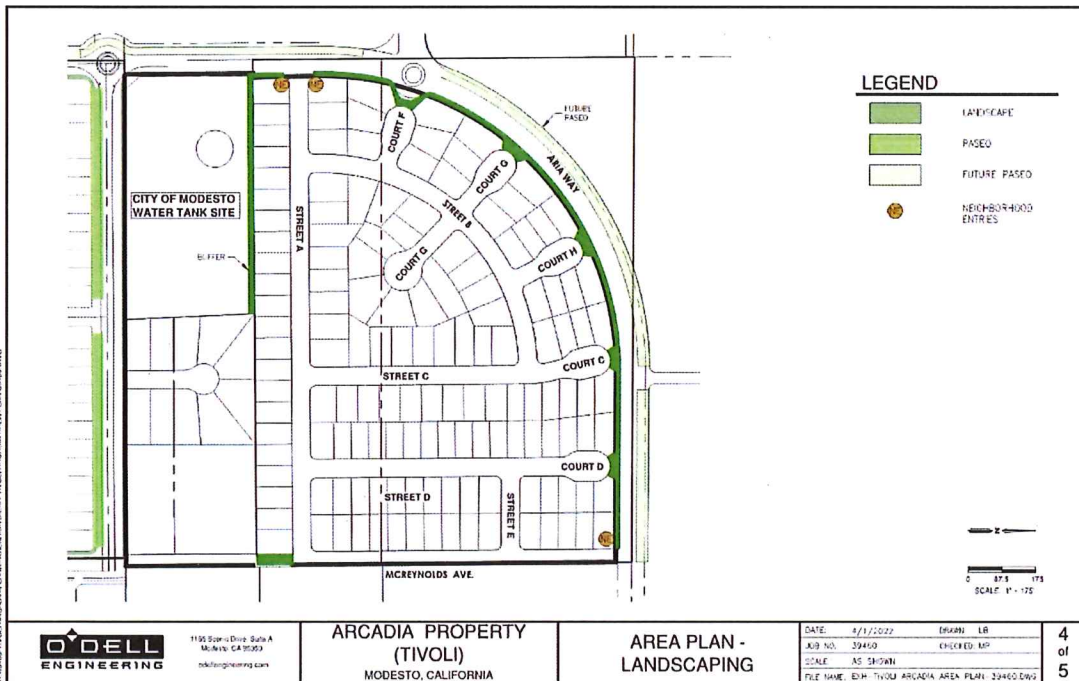
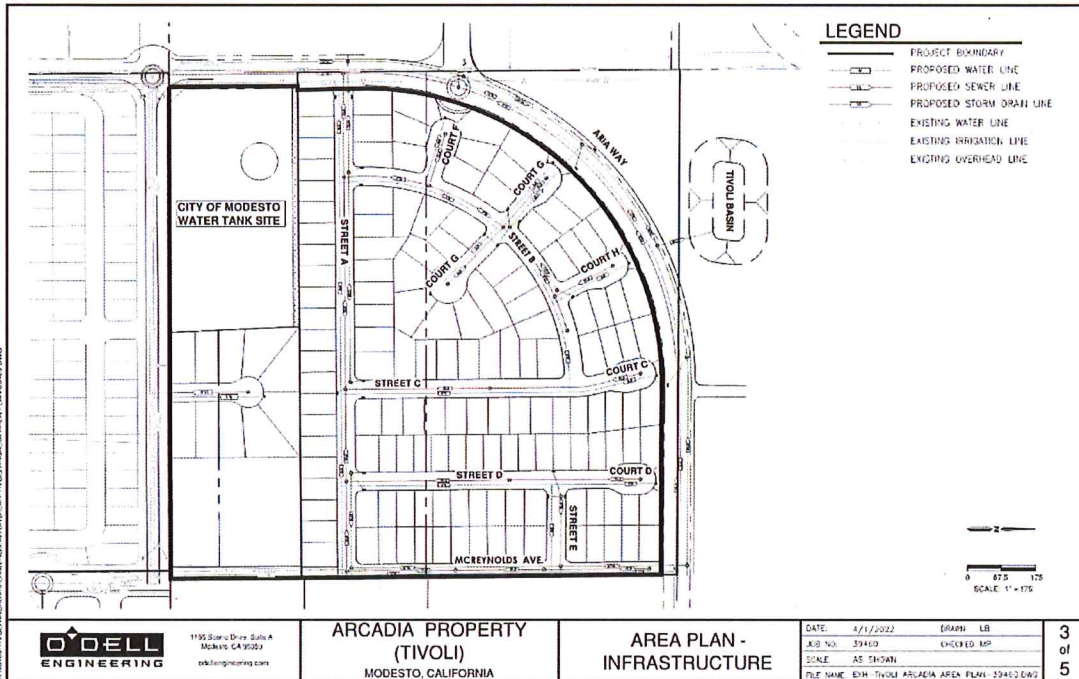


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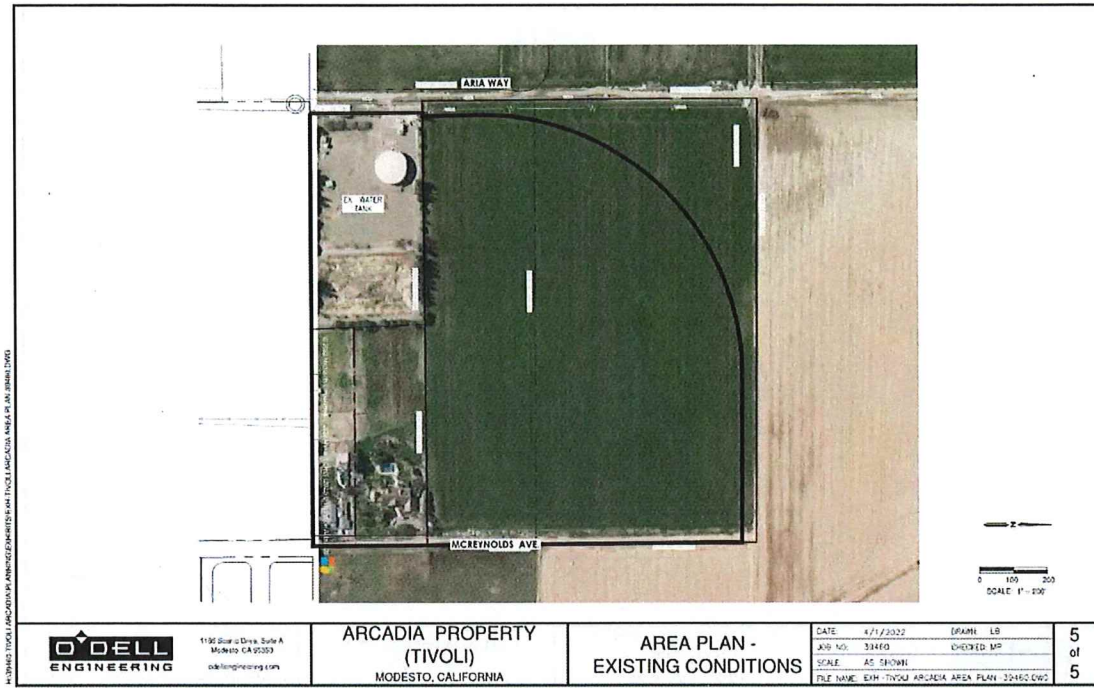


DATE: 4/11/2022 DRAWN: LB 2 of 5  
 JOB NO: 39450 CHECKED: MP  
 SCALE: AS SHOWN  
 FILE NAME: E:\M-TIVOLI\ARCADIA AREA PLAN-39450.DWG

**AREA PLAN No. 7**  
**Land Use and Circulation Plans**  
**AREA-21-002**



**AREA PLAN No. 7**  
**Infrastructure and Landscape Plans**  
**AREA-21-002**



THIS PLAN IS THE PROPERTY OF O'DELL ENGINEERING AND IS NOT TO BE REPRODUCED OR TRANSMITTED IN ANY FORM OR BY ANY MEANS, ELECTRONIC OR MECHANICAL, INCLUDING PHOTOCOPYING, RECORDING, OR BY ANY INFORMATION STORAGE AND RETRIEVAL SYSTEM.



1196 Blue O Drive, Suite A  
 Modesto, CA 95233  
 oak@oelleng.com

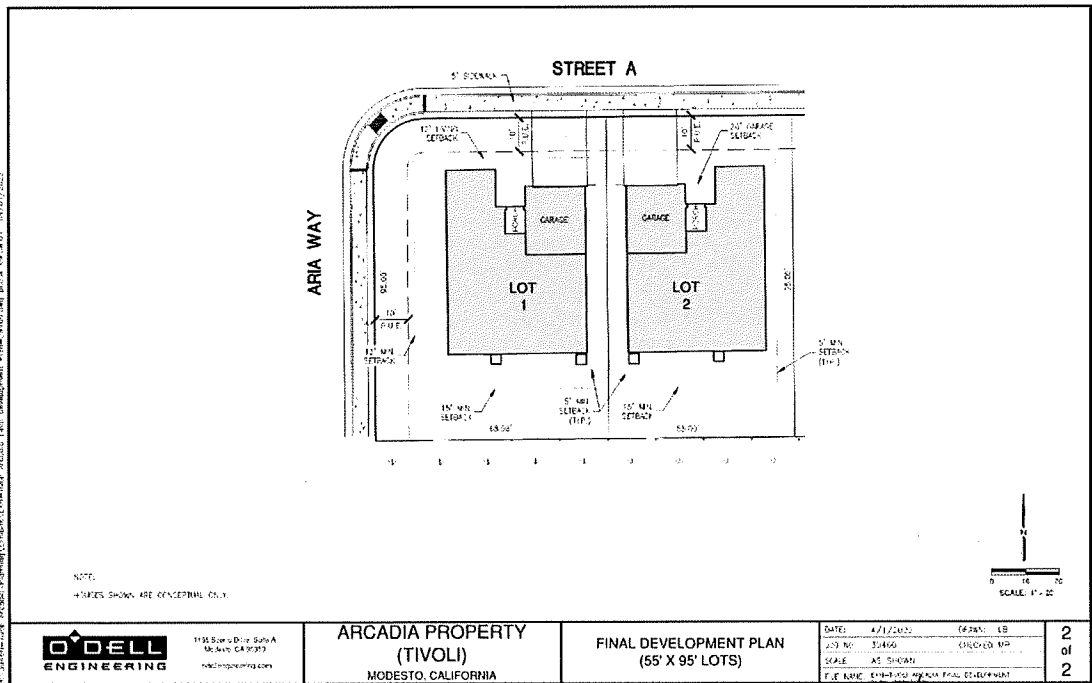
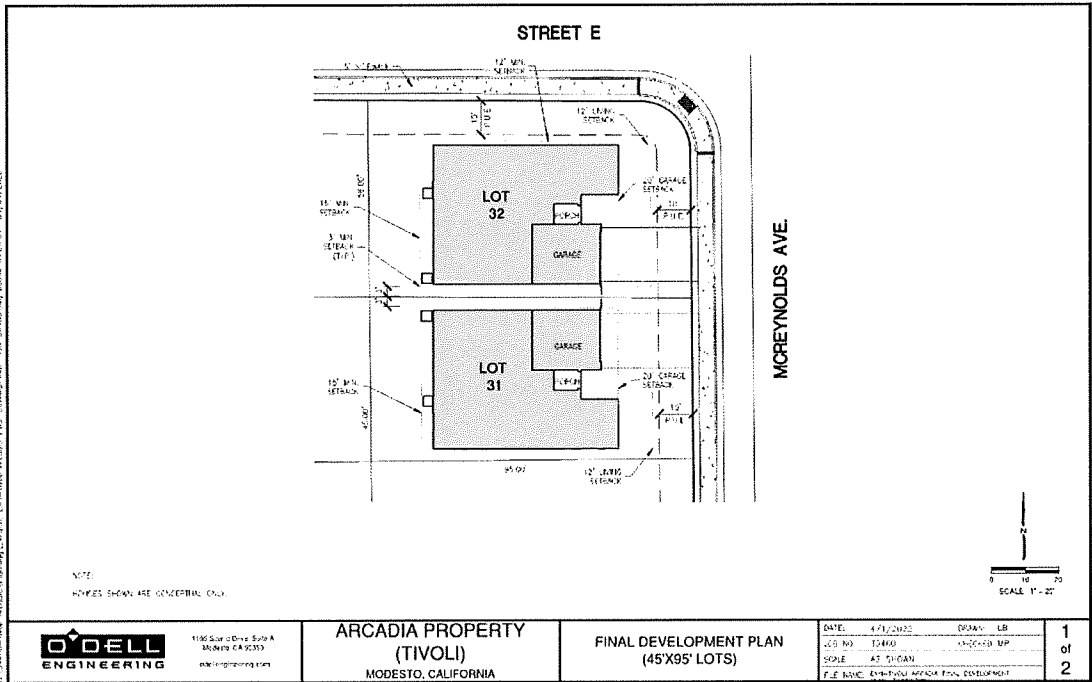
**ARCADIA PROPERTY  
 (TIVOLI)**  
 MODESTO, CALIFORNIA

**AREA PLAN -  
 EXISTING CONDITIONS**

DATE	8/1/2022	DRAWN	LB
JOB NO.	33460	CHECKED	MP
SCALE	AS SHOWN		
FILE NAME	EXH-TIVOLI-ARCADIA-AREA-PLAN-22162-002		

**5  
 of  
 5**

**AREA PLAN No. 7  
 Existing Conditions  
 AREA-21-002**



**FINAL DEVELOPMENT PLAN**  
**FDP-21-003**

**ENVIRONMENTAL FACTORS POTENTIALLY AFFECTED:**

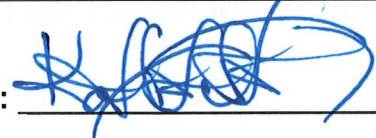
The environmental factors checked below would be potentially affected by this project. Please see the checklist beginning on page 3 for additional information.

<input type="checkbox"/>	Aesthetics	<input checked="" type="checkbox"/>	Agriculture and Forestry	<input checked="" type="checkbox"/>	Air Quality
<input checked="" type="checkbox"/>	Biological Resources	<input type="checkbox"/>	Cultural Resources	<input type="checkbox"/>	Geology/Soils
<input type="checkbox"/>	Greenhouse Gas Emissions	<input type="checkbox"/>	Hazards and Hazardous Materials	<input type="checkbox"/>	Hydrology/Water Quality
<input checked="" type="checkbox"/>	Land Use/Planning	<input type="checkbox"/>	Mineral Resources	<input checked="" type="checkbox"/>	Noise
<input checked="" type="checkbox"/>	Population/Housing	<input type="checkbox"/>	Public Services	<input type="checkbox"/>	Recreation
<input checked="" type="checkbox"/>	Transportation/Traffic	<input checked="" type="checkbox"/>	Utilities/Service Systems	<input checked="" type="checkbox"/>	Mandatory Findings of Significance

**DETERMINATION:**

On the basis of this initial evaluation:

<input type="checkbox"/>	I find that the proposed project COULD NOT have a significant effect on the environment, and a NEGATIVE DECLARATION will be prepared.
<input type="checkbox"/>	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.
<input type="checkbox"/>	I find that the proposed project MAY have a significant effect on the environment, and an ENVIRONMENTAL IMPACT REPORT is required.
<input type="checkbox"/>	I find that the proposed project MAY have a "potentially significant impact" or "potentially significant unless mitigated" impact on the environment, but at least one effect 1) has been adequately analyzed in an earlier document pursuant to applicable legal standards, and 2) has been addressed by mitigation measures based on the earlier analysis as described on attached sheets. An ENVIRONMENTAL IMPACT REPORT is required, but it must analyze only the effects that remain to be addressed.
<input checked="" type="checkbox"/>	I find that although the proposed project could have a significant effect on the environment, because all potentially significant effects (a) have been analyzed adequately in an earlier EIR or NEGATIVE DECLARATION pursuant to applicable standards, and (b) have been avoided or mitigated pursuant to that earlier EIR or NEGATIVE DECLARATION, including revisions or mitigation measures that are imposed upon the proposed project, nothing further is required.

Signature:  \_\_\_\_\_

Date: 8-26-22

Printed Name: Katharine Martin, Senior Planner

This checklist identifies physical, biological, social and economic factors that might be affected by the proposed project. In many cases, background studies performed in connection with the projects indicate no impacts. A NO IMPACT answer in the last column reflects this determination. Where there is a need for clarifying discussion, the discussion is included either following the applicable section of the checklist or is within the body of the environmental document itself. The words "significant" and "significance" used throughout the following checklist are related to CEQA, not NEPA, impacts. The questions in this form are intended to encourage the thoughtful assessment of impacts and do not represent thresholds of significance.

	Potentially Significant Impact	Less Than Significant with Mitigation	Less Than Significant Impact	No Impact
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**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 type="checkbox"/>	<input checked="" 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 checked="" type="checkbox"/>	<input type="checkbox"/>

**Discussion**

- a) The project would have no effect on any scenic vistas, or restrict access to any scenic vistas.
- b) The project site is not located near any scenic resources such as trees, rock outcroppings or historic buildings.
- c) The project would not damage scenic resources or degrade the existing visual character or quality of the site. The site is relatively flat and undeveloped land in current use for corn and/or alfalfa production.
- d) The project involves new residential development that would produce new sources of lighting, including but not limited to streetlights, vehicle headlights, and residential lighting. No new traffic signals are proposed with the development of the Arcadia-Tivoli project site. The Tivoli FEIR found such impacts to be less than significant and no mitigation is necessary.

Potentially Significant Impact	Less Than Significant with Mitigation	Less Than Significant Impact	No Impact
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**II. AGRICULTURE AND FOREST 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. In determining whether impacts to forest resources, including timberland, are significant environmental effects, lead agencies may refer to information compiled by the California Department of Forestry and Fire Protection regarding the state's inventory of forest land, including the Forest and Range Assessment Project and the Forest Legacy Assessment Project; and the forest carbon measurement methodology provided in Forest Protocols adopted by the California Air Resources Board. 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 checked="" 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) Conflict with existing zoning for, or cause rezoning of, forest land (as defined in Public Resources Code section 12220(g)), timberland (as defined by Public Resources Code section 4526), or timberland zoned Timberland Production (as defined by Government Code section 51104(g))? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/>            | <input checked="" type="checkbox"/> |
| d) Result in the loss of forest land or conversion of forest land to non-forest use?                                                                                                                                                                                                       | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/>            | <input checked="" type="checkbox"/> |
| e) Involve other changes in the existing environment which, due to their location or nature, could result in conversion of Farmland, to non-agricultural use or conversion of forest land to non-forest use?                                                                               | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/>            |

**Discussion**

- a) As of data available from the California Department of Conservation as of 2018, the land within Tivoli Area No. 7 is categorized by the FMMP as primarily Unique Farmland and Grazing Land. On April 9, 2013 by Resolution No. 2013-129, the City Council adopted a policy to exempt from agricultural mitigation requirements all land area within the current City limits, including the Tivoli Specific Plan area. Therefore, no mitigation is required.
- b) The parcels of the Area Plan and the 29.3-acre tentative map site within are not zoned for agricultural uses nor are under any Williamson Act contracts. The area of the Tivoli Specific Plan annexed to the City of Modesto in September of 2008 and was rezoned to SP (Specific Plan) allowing for commercial, office and residential uses as permitted in the land use diagram of the Specific Plan.
- c) The project site is not forest or timberland and would not cause the rezoning of forest or timberland. No timberland or forest zoning has been applied to the area.
- d) The project site has recently been utilized for corn or alfalfa production, and therefore would not cause the loss or conversion of forest land.
- e) The project would not cause the loss or conversion of forest land. The site is currently vacant and undeveloped, and has recently been utilized for corn or alfalfa production.

	Potentially Significant Impact	Less Than Significant with Mitigation	Less Than Significant Impact	No Impact
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**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 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 checked="" 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 type="checkbox"/>	<input checked="" 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"/>

**Discussion**

- a) The project would not obstruct implementation of an applicable air quality plan.
- b) The project was referred to the San Joaquin Valley Air Pollution Control District (SJAPC), who indicated no concerns. However, air quality impacts were considered by the Tivoli FEIR and mitigation measures from the FIER MMRP to reduce impacts to less than significant will be applied to the project.
- c) Impacts to air quality would be associated with vehicle emissions, construction activities and on-site residential sources such as landscape maintenance and barbecues. As identified in the Tivoli Specific Plan FEIR, the project is consistent with assumptions for land use in the Village Residential land use of the City's General Plan, and would be subject to all air quality policies of the City. Mitigation measures related to construction activities from the FEIR will be applied to the project.
- d) e) The nearest sensitive receptors are two existing rural residential properties to the south of the project area, and Enochs High School approximately one-half mile to the east. Construction activities for the project could potentially include the application of architectural coatings and asphalt paving material that could generate local temporary odors. The use of diesel-powered construction equipment could also generate localized odors. Construction activities will be mitigated as called for by the FEIR.

The appropriated mitigation measures to be applied to the project are E.1 and E.2c from the Tivoli FEIR.

	Potentially Significant Impact	Less Than Significant with Mitigation	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 checked="" type="checkbox"/> | <input 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 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 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?
- e) Conflict with any local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance?
- f) Conflict with the provisions of an adopted Habitat Conservation Plan, Natural Community Conservation Plan, or other approved local, regional, or state habitat conservation plan?

**Discussion**

- a) The tentative subdivision map site is 29.3 acres located north of Sylvan Avenue, northwest of the end of McReynolds Ave., and is currently vacant and undeveloped land currently utilized as pasture land. The site is not located near a riparian habitat. The Tivoli FEIR found that the project area could have an impact on the foraging habitat of Swainson’s Hawks, and the nesting habitat of Burrowing Owls. Mitigation measures from the FEIR to reduce those impacts to less than significant will be applied to the project.
- b) The site is not located within a riparian area as identified by the City's General Plan Master Environmental Impact Report (MEIR), approved earlier (SCH 2014042081).
- c) The project area is not located within a wetland area and does not qualify as a federally protected wetland per Section 404 of the Clean Water Act.
- d) The proposed amendments and development would not interfere with the movement of any native resident or migratory fish. The Tivoli FEIR identified that while the project could result in loss of nesting and foraging habitat for Swainson’s Hawks and Burrowing Owls, the project is consistent with the assumptions of residential development within the Tivoli Specific Plan and the City’s Urban Area General Plan. Mitigation measures from the Tivoli FEIR will be applied to reduce impacts to less than significant.
- e) The project would not conflict with local biological preservation regulations or ordinances.
- f) The proposed amendments and development would not conflict with the provisions of an adopted Habitat Conservation Plan, Natural Community Conservation Plan, or other approved local, regional or state habitat conservation program.

The appropriate mitigation measures applicable to the project are H.5 with regards to loss of foraging habitat for Swainson’s Hawks, and H.6a and H.6b to minimize impacts to Burrowing Owls.

	Potentially Significant Impact	Less Than Significant with Mitigation	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 type="checkbox"/> | <input checked="" 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 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"/> |

**Discussion**

- a) The amendment areas and development site are primarily pastureland. No cultural resources have been identified in the project area.
- b) The project would not cause an adverse change in the significance of an archeological resource. The site is primarily utilized for the growing of alfalfa.
- c) The project would not impact a unique paleontological resource or site or unique geologic feature.
- d) No known cultural resources or remains have been identified in the project area. The project was referred to the local Native American tribes for review and comment, and no concerns were indicated. However, implementation of mitigation measure AH-21 from the City's General Plan MEIR will be applied to the project if prehistoric archaeological remains are discovered during project construction (inadvertent discoveries).

The appropriate mitigation measure applicable to the project is AH-21 from the City's General Plan MEIR with regards to inadvertent discoveries throughout the duration of construction.

	Potentially Significant Impact	Less Than Significant with Mitigation	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:                                                                                                                                                       | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" 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 type="checkbox"/> | <input checked="" type="checkbox"/> |

- |                                                                                                                                                                                                                                    |                          |                          |                          |                                     |
|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------|--------------------------|--------------------------|-------------------------------------|
| ii) Strong seismic ground shaking?                                                                                                                                                                                                 | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| iii) Seismic-related ground failure, including liquefaction?                                                                                                                                                                       | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| iv) 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 on- or off-site 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 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"/> |

**Discussion**

- a) The project site is level and comprised of loam and sandy loam soils. The site is not located near a seismic zone and would not be susceptible to liquefaction or landslide.
- b) The project would not cause substantial soil erosion.
- c) The site is not located on a geologic unit or soil that is unstable or would become unstable as a result of the project.
- d) The soils at the site are predominately loam soils and sandy loam soils, not expansive soils. The City's Urban Area General Plan MEIR found that there is low exposure to expansive soils and any exposure can be reasonably controlled by the adopted Uniform Building Code.
- e) The site will utilize the City's sewer system for the disposal of waste water.

Potentially Significant Impact	Less Than Significant with Mitigation	Less Than Significant Impact	No Impact
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**VII. GREENHOUSE GAS EMISSIONS:** Would the project:

- |                                                                                                                                  |                          |                          |                                     |                                     |
|----------------------------------------------------------------------------------------------------------------------------------|--------------------------|--------------------------|-------------------------------------|-------------------------------------|
| a) Generate greenhouse gas emissions, either directly or indirectly, that may have a significant impact on the environment?      | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/>            |
| b) Conflict with an applicable plan, policy or regulation adopted for the purpose of reducing the emissions of greenhouse gases? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/>            | <input checked="" type="checkbox"/> |

**Discussion**

- a) Generation of greenhouse gases would predominately occur with vehicle traffic, but not at levels that would exceed those assumed by the Tivoli FEIR or the City's General Plan MEIR.
- b) The project would not conflict with an applicable plan, policy or regulation adopted for the purpose of reducing the emissions of greenhouse gasses.

	Potentially Significant Impact	Less Than Significant with Mitigation	Less Than Significant Impact	No Impact
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**VIII. 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 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 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) 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"/>

**Discussion**

- a, b, c) The project is residential in nature, and would not involve the transport or disposal of hazardous materials, nor release hazardous materials into the environment as a result of an accident. The nearest school to the site is James C. Enochs High School, approximately 0.5-mile to the east.
- d) The site is not located on a list of hazardous materials sites.
- e, f) The site is not located within two miles of an airport, nor is in the vicinity of a private airstrip.
- g) The project would not interfere with an adopted emergency response time.
- h) The site is not located in an area adjacent to a wildland nor is an area that is susceptible to wildland fires.

Mitigation Measures applicable to the project include G.2 of the Tivoli Specific Plan FIER.

	Potentially Significant Impact	Less Than Significant with Mitigation	Less Than Significant Impact	No Impact
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**IX. 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 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 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 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 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 type="checkbox"/> | <input checked="" type="checkbox"/> |
| j) Inundation by seiche, tsunami, or mudflow                                                                                                                         | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |

**Discussion**

a) The project would not violate any water quality standards or waste discharge requirements.

a) The project would not substantially deplete groundwater supplies or interfere substantially with groundwater recharge. The project will incorporate on-site storm water handling and drainage.

c, d) The project would not alter the course of a stream or river, or substantially increase the rate or amount of runoff in a manner which would result in flooding on- or off-site. The project area is known for sheet flooding historically and development would increase impervious area; however, the Tivoli Specific Plan provides for underground stormwater lines and detention basins to handle runoff. The application of Mitigation Measures I.1 through I.3 which requires the submittal of a drainage plan for review and approval by the City Engineer or designee prior to issuance of a grading permit, would reduce impacts to a less than significant level.

e,f) The project would not create or contribute runoff water which would exceed the capacity of existing or planned storm water drainage systems. Drainage policies applied during the construction process would reduce sources of construction-related runoff to a less than significant level.

g) The site is outside of a 100-year flood hazard zone as delineated by FEMA.

h) The project would not place structures in a flood hazard zone.

i) The site is not located immediately downstream of a levee or dam.

j) The site is not located near any large bodies of water that would pose a danger due to tsunami, seiche or mudflow.

Mitigation Measures applicable to the project include I.1 through I.4 of the Tivoli Specific Plan FIER.

	Potentially Significant Impact	Less Than Significant with Mitigation	Less Than Significant Impact	No Impact
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**X. LAND USE AND PLANNING:** Would the project:

- a) Physically divide an established community?
- b) Conflict with any applicable land use plan, policy, or regulation of an agency with jurisdiction over the project (including, but not limited to the general plan, specific plan, local coastal program, or zoning ordinance) adopted for the purpose of avoiding or mitigating an environmental effect?
- c) Conflict with any applicable habitat conservation plan or natural community conservation plan?

Discussion

a) The project would not divide an established community. The area of the Specific Plan is adjacent to existing residential development to the south and has been identified in the Urban Area General Plan.

b) California Senate Bill 330 (“Housing Crisis Act of 2019”), signed into law on October 9, 2019, disallows the reduction of allowed residential density without the concurrent replacement of density elsewhere in the jurisdiction, until January 1, 2025. The proposal involves amending the land use diagram of the Tivoli Specific Plan to change the designation of 21.1 acres from Medium Density Residential to Low Density Residential and 11 acres from Medium-High Density Residential to Low Density Residential. The proposed amendment would reduce the overall density of the MDR and MHDR areas by approximately 285 dwelling units.

However, the proposal also involves changing the land use designation of 25 acres from Regional Serving Commercial (RSC) to Low Density Residential. This would allow for the development of 168 dwelling units at minimum to offset the loss of density by the proposed land use changes above. Additionally, in April of 2022 the City Council approved an amendment to the land use diagram of the Kiernan Business Park Specific Plan, that changed the designation of 67 acres from Business Park to Mixed Uses allowing for medium-high density residential uses of 15-16 units per acre. The developer of the Kiernan SP project has indicated that project would result in approximately 480 dwelling units, which in combination with the above proposed land use amendment from Regional Commercial to Low Density Residential, would sufficiently offset the loss of residential density.

c) The City does not have an adopted habitat conservation plan or community conservation plan.

	Potentially Significant Impact	Less Than Significant with Mitigation	Less Than Significant Impact	No Impact
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**XI. 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"/> |

**Discussion**

a, b) There are no known mineral resources within the project area.

	Potentially Significant Impact	Less Than Significant with Mitigation	Less Than Significant Impact	No Impact
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**XII. 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 type="checkbox"/> | <input checked="" 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?

**Discussion**

a) The Specific Plan area is adjacent to arterial streets and therefore would expose the project site to traffic-related noise, but at a less than significant level with mitigation measures from the Tivoli Specific Plan FEIR for noise control barriers applied.

b) The project would generate temporary ground-borne vibration during the construction process but at a less than significant level.

c, d) Construction related noise would create a temporary increase in ambient noise, but at a less than significant level with mitigation measures applied.

e, f) The site is not located within an airport land use plan or within two miles of a public airport, and is not located near a private airstrip.

The appropriate mitigation measures applicable to the project includes F.2a from the Tivoli SP FEIR and application of the regulations of the City's Noise Ordinance (Section 4-9.101 of the Modesto Municipal Code with regards to construction noise.

	Potentially Significant Impact	Less Than Significant with Mitigation	Less Than Significant Impact	No Impact
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**XIII. POPULATION AND HOUSING:** Would the project:

- 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)?
- b) Displace substantial numbers of existing housing, necessitating the construction of replacement housing elsewhere?
- c) Displace substantial numbers of people, necessitating the construction of replacement housing elsewhere?

**Discussion**

a) The Specific Plan at full buildout would be comprised of between 1,855 and 3,241 residential units, approximately 80 acres of commercial and office development, and 284 acres of park, public school and open space areas. The density would be an average of 5.1 dwelling units per gross acre, within the assumptions of the General Plan.

b, c) The project area is vacant land historically in agricultural production, and contains no structures. The tentative subdivision map would provide for 141 single-family residential lots on 29.3 acres and amend the land use designation of 25 acres from Regional Commercial to Low Density Residential uses to provide for additional residential development.

	Potentially Significant Impact	Less Than Significant with Mitigation	Less Than Significant Impact	No Impact
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**XIV. 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 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 checked="" type="checkbox"/>	<input 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"/>

**Discussion**

- a) Development of the project would increase demand for police and fire services to the new residential subdivision, but the project will pay associated Capital Facilities Fees (CFF) at the time of building permit issuance. The police and fire departments indicated no concerns with the project. The nearest fire station is Station No. 7 at 1800 Mable Avenue, 1.8 miles to the west.

The project would increase demand for public school services, and new residential development will pay school impact fees at the time of building permit issuance. Additionally, a 13-acre elementary school site is planned within the Specific Plan, with development to occur in the future as the school district determines need.

The project will be required to pay CFF for their fair share contribution towards the development of parks, paseos and open spaces within the Specific Plan area, in addition to establishing a Community Finance District (CFD) to cover the maintenance of the Specific Plan's amenities.

	Potentially Significant Impact	Less Than Significant with Mitigation	Less Than Significant Impact	No Impact
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**XV. 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 type="checkbox"/> | <input checked="" type="checkbox"/> |

**Discussion**

- a) The project would not increase the use of existing neighborhood and regional parks or other facilities to the extent that substantial deterioration of the facility would occur or be accelerated. The area is within one mile of the Mary Grogan Park and soccer fields, and the Specific Plan provides for the future development of an elementary school and neighborhood park site. Additionally, the project would be required to pay Capital Facilities Fees (CFF) for its fair share contribution toward the development of parks.
- b) While the Area Plan and underlying tentative subdivision map does not include any park development, the land use diagram of the Tivoli Specific Plan does include the development of a park, paseos and open spaces throughout the Specific Plan.

	Potentially Significant Impact	Less Than Significant with Mitigation	Less Than Significant Impact	No Impact
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**XVI. TRANSPORTATION/TRAFFIC:** Would the project:

a) Conflict with an applicable plan, ordinance or policy establishing measures of effectiveness for the performance of the circulation system, taking into account all modes of transportation including mass transit and non-motorized travel and relevant components of the circulation system, including but not limited to intersections, streets, highways and freeways, pedestrian and bicycle paths, and mass transit?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b) Conflict with an applicable congestion management program, including, but not limited to level of service standards and travel demand measures, or other standards 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 checked="" type="checkbox"/>	<input type="checkbox"/>
e) Result in inadequate emergency access?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
f) Conflict with adopted policies, plans or programs regarding public transit, bicycle, or pedestrian facilities, or otherwise decrease the performance or safety of such facilities?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

**Discussion**

- a, b) The project would not be in conflict with any adopted transportation plan or policy. The project provides for an internal roadway system that accommodates vehicles, pedestrians and bicycles, and a transit stop is to be provided along Sylvan Avenue at Aria Drive. The project is consistent with General Plan assumptions for land use and development intensity, and development would be subject to City standards and applicable traffic and circulation policies of the City.
- c) The site is not located near an airport nor would impact air traffic patterns.
- d) The project would not significantly increase traffic hazards. The Circulation Diagram of the Specific Plan provides for the installation of a new roundabout at the intersection of Sylvan Avenue and Aria Way, and requires roundabouts at internal streets where outlined in the Diagram.
- e) The project would not result in inadequate emergency vehicle access. The Fire Department indicated no concerns with access within the Area Plan.
- f) The project would not conflict with adopted transit, bicycle or pedestrian plans or programs.

Potentially Significant Impact	Less Than Significant with Mitigation	Less Than Significant Impact	No Impact
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**XVII: TRIBAL CULTURAL RESOURCES**

Would the project cause a substantial adverse change in the significance of a tribal cultural resource, defined in Public Resources Code section 21074 as either a site, feature, place, cultural landscape that is geographically defined in terms of the size and scope of the landscape, sacred place, or object with cultural value to a California Native American tribe, and that is:

- a) Listed or eligible for listing in the California Register of Historical Resources, or in a local register of historical resources as defined in Public Resources Code section 5020.1(k), or

b) A resource determined by the lead agency, in its discretion and supported by substantial evidence, to be significant pursuant to criteria set forth in subdivision (c) of Public Resources Code Section 5024.1. In applying the criteria set forth in subdivision (c) of Public Resources Code Section 5024.1, the lead agency shall consider the significance of the resource to a California Native American tribe.

**DISCUSSION**

a, b) The Area Plan and tentative map site is undeveloped land primarily used as pastureland and production of alfalfa, and is not eligible for listing as a historic resource. The Lone Band of Miwuk Indians and the Northern Valley Yokuts tribes were notified of the project, and both indicated no concerns with the project.

	Potentially Significant Impact	Less Than Significant with Mitigation	Less Than Significant Impact	No Impact
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**XVIII. UTILITIES AND SERVICE SYSTEMS:**

Would the project:

- a) Exceed wastewater treatment requirements of the applicable Regional Water Quality Control Board?
- b) Require or result in the construction of new water or wastewater treatment facilities or expansion of existing facilities, the construction of which could cause significant environmental effects?
- c) Require or result in the construction of new storm water drainage facilities or expansion of existing facilities, the construction of which could cause significant environmental effects?
- d) Have sufficient water supplies available to serve the project from existing entitlements and resources, or are new or expanded entitlements needed?
- 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?
- f) Be served by a landfill with sufficient permitted capacity to accommodate the project's solid waste disposal needs?

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

**Discussion**

- a) The project would not exceed treatment requirements of an applicable water quality control board. The city has adequate capacity to handle the project.
- b) The project would not result in the construction of new water or wastewater treatment facilities.
- c) The project will provide for storm water handling and treatment with the installation of new underground storm drain lines and the installation of a storm basin/open space area as provided in the Tivoli Specific Plan. The project would also comply with the City's Stormwater Management Program, Guidance Manual for New Development.
- d) There are sufficient water supplies to serve the project area.
- e) The City has sufficient wastewater capacity to serve the project area.
- f) The project will be handled by the Gilton Solid Waste Management company, who indicated ability to serve the development at the time of the Specific Plan's adoption.
- g) The project will comply with statues and regulations related to solid waste.

	Potentially Significant Impact	Less Than Significant with Mitigation	Less Than Significant Impact	No Impact
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**XVIII. 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, substantially reduce the number or restrict the range of a rare or endangered plant or animal or eliminate important examples of the major periods of California history or prehistory?
- b) Does the project have impacts that are individually limited, but cumulatively considerable? ("Cumulatively considerable" means that the incremental effects of a project are considerable when viewed in connection with the effects of past projects, the effects of other current projects, and the effects of probable future projects)?
- c) Does the project have environmental effects which will cause substantial adverse effects on human beings, either directly or indirectly?

## Discussion

- As discussed in Section IV Biological Resources, the project would not substantially impact wildlife habitat with mitigation measures applied.
- The project would not result in significant impact beyond those identified in the Tivoli FEIR and the General Plan MEIR.
- The document identifies that the project would have some environmental impact; however, as all potentially significant effects have (a) been analyzed adequately in the Tivoli FEIR, previously certified, and (b) have been avoided or mitigated pursuant to the FEIR, nothing further is required.

Mitigation Measures that are applicable to the Tivoli Area No. 6 project (Area Plan, Final Development Plan, Vesting Tentative Subdivision Map):

### Air Quality

**E.1:** The construction plans for each group of building permits shall incorporate the following recommendations from the District to minimize emissions during construction phases:

- The project developers shall review Regulation VIII of the San Joaquin Valley Air Pollution Control District regulations and submit a compliance plan to the City of Modesto prior to commencing any phase of construction. The compliance plan must demonstrate that the current requirements of Regulation VIII will be implemented. Compliance plan shall be submitted to and approved by the Community and Economic Development Department prior to the issuance of a grading or building permit, whichever occurs first.
- Prior to the issuance of construction contracts, the project developers shall perform a review of new technology, as it relates to heavy-duty equipment, to determine what, if any, advances in emissions reduction are available for use. It is anticipated that in the near future both NO<sub>x</sub> and PM<sub>10</sub> control equipment will be available. The San Joaquin Valley Air Pollution Control District should be consulted during this process. The Project Developers shall incorporate available new technology in construction contracts.
- The project developers shall limit traffic speed on unpaved roads to 15 miles per hour.
- The project developers shall install sandbags or other control measures to prevent silt runoff to public roadways from sites with a slope greater than 1 percent.
- The project developers shall install wheel washers for all exiting trucks, or wash off all trucks and equipment leaving the site, to prevent track-out of soil to public roadways.
- The project developers shall install windbreaks at windward sides of construction areas, if necessary to prevent wind-blown dust. Windbreaks shall be installed by the Project Developers prior to the issuance of grading or building permit, whichever occurs first.
- The project developers shall suspend excavation and grading activity when winds exceed 20 miles per hour.  
Wind speed measuring devices shall be installed by the Project Developers prior to the issuance of grading or building permit, whichever occurs first.
- The project developers shall limit the area subject to excavation, grading, and other construction activity at any one time.
- The project developers shall ensure that the accumulation of mud or dirt is expeditiously removed from adjacent public streets at least once every 24 hours when construction activities are occurring (the use of dry rotary brushes is expressly prohibited except where preceded or accompanied by sufficient wetting to limit the visible dust emissions). Project Developer shall provide a daily street sweeping schedule prior to the issuance of grading or building permit, whichever occurs first.
- The project developers shall use alternative-fuel construction equipment, where feasible. Project Developer shall provide a list of any alternative equipment prior to the issuance of grading or building permit, whichever occurs first.
- The project developers shall minimize idling time (e.g., to a 10-minute maximum).
- The project developers shall limit the hours of operation of heavy-duty equipment and/or the amount of equipment in use to the minimum practical.

- The project developers shall replace fossil-fueled equipment with electrically driven equivalents (provided they are not run via a portable generator set), where feasible.
- The project developers shall take steps to curtail construction activity during periods of high ambient pollutant concentrations; this may include reducing construction activity during the peak hour of vehicular traffic on adjacent roadways or ceasing construction activity during days declared as Spare the Air days by the San Joaquin Valley Air Pollution Control District.
- The project developers shall implement activity management to reduce cumulative short-term impacts. Activity management plan shall be submitted to and approved prior to the issuance of a grading or building permit, whichever occurs first.

**E.2c:** The site design shall fulfill the following requirements to reduce emissions from energy consumption:

- The project developers shall incorporate energy efficient building design features including automated control systems for heating and air conditioning and overall energy efficiency at least 10 percent beyond the requirements of the California Energy Code (Title 24, California Code of Regulations), using features such as increased wall and ceiling insulation beyond Energy Code requirements, light colored roof materials to reflect heat, and energy efficient lighting and lighting controls. Prior to building permit issuance of each project, construction plans shall show that all energy efficient measures are included.
- The project developers shall design buildings with windows and/or skylights oriented to maximize natural cooling and heating in accordance with the California Energy Commission's 2005 Building Energy Efficiency Standards.
- The project developers shall incorporate approved deciduous trees to provide shade on the south- and west-facing sides of buildings. Prior to building permit issuance of each project, landscape plans shall be approved.

#### Noise

**F.2a:** Design and implement new barriers for noise control at exterior locations of proposed residential development adjacent to major roadways. Prior to building permit issuance of each project, construction plans shall show all noise control features are included. The noise control features shall be installed prior to certificate of occupancy.

#### Biological Resources

**H.5:** Compensation for loss of foraging habitat. Loss of 297.5 acres of foraging habitat for Swainson's Hawks shall be mitigated by providing offsite Habitat Management (HM) lands as described in the CDFG's *Staff Report regarding Mitigation for Impacts to Swainson's Hawks (Buteo swainsoni) in the Central Valley of California* because the site was confirmed to be foraging habitat for Swainson's Hawks through direct observation and is likely within ten miles of an active nest (used during one or more of the last five years).

The acreage of off-site management lands to be provided will depend on the distance between the project site and the nearest active nest site. The 1994 CDFG staff report states:

- Projects within one mile of an active nest tree shall provide:
  - One acre of HM land (at least 10% of the HM land requirements shall be met by fee title acquisition or a conservation easement allowing for the active management of the habitat, with the remaining 90% of the HM lands protected by a conservation easement [acceptable to the Department] on agricultural lands or other suitable habitats that provide foraging habitat for Swainson's Hawk) for each acre of development authorized (1:1 ratio); or

One-half acre of HM land (all of the HM land requirements shall be met by fee title acquisition or a conservation easement [acceptable to the Department] which allows

for the active management of the habitat for prey production on the HM lands) for each acre of development authorized (0.5:1 ratio).

- Projects within 5 miles of an active nest tree but greater than 1 mile from the nest tree shall provide 0.75 acres of HM land for each acre of urban development authorized (0.75:1 ratio). All HM lands protected under this requirement may be protected through fee title acquisition or conservation easement (acceptable to the department) on agricultural lands or other suitable habitats that provide foraging habitat for Swainson's Hawks.
- Projects within 10 miles of an active nest tree but greater than 5 miles from an active nest tree shall provide 0.5 acres of HM land for each acre of urban development authorized (0.5:1 ratio). All HM lands protected under this requirement may be protected through fee title acquisition or conservation easement (acceptable to the Department) on agricultural lands or other suitable habitats that provide foraging habitat for Swainson's Hawks.
- Management Authorization holders/project sponsors shall provide for the long-term management of the HM lands by funding a management endowment (the interest on which shall be used for managing the HM lands) at the rate of \$400 per HM acre. Current records within the CNDDDB are more than five years old, so they alone cannot be used to confirm a mitigation ratio for the loss of approximately 298 acres of foraging habitat. The CNDDDB records do, however, provide guidance. The mitigation ratio depends on whether the project site is within one of three zones: 1) less than a mile; 2) between one and five miles; or 3) between five and ten miles. Nests have been recorded within the riparian habitats along both the Stanislaus River and Tuolumne River within ten miles of the project site. Even though the existing records along these rivers are more than five years old, active unpublished nests along these rivers within the last five years are nearly certain to have occurred. Therefore, this analysis assumes that active Swainson's Hawks nests are present within ten miles of the project site.

Nest season surveys for Swainson's Hawks should be conducted to confirm whether an active nest occurs within one of the closer zones. Assuming that nests are present within ten miles, however, reduces the area requiring nest-season surveys from 314.2 square miles to 78.5 square miles; the area within 5 miles of the project site.

**H.6a:** Implementation of formal CDFG guidelines (Staff Report on Burrowing Owl Mitigation) to avoid and minimize impacts to Burrowing Owls. In conformance with federal and state regulations regarding the protection of raptors, a habitat assessment in accordance with CDFG guidelines for Burrowing Owls should be completed prior to the start of construction. Burrowing Owl habitat on the project site and within a 500-foot (150 m) buffer zone should be assessed. If the habitat assessment concludes that the site and immediate vicinity lack suitable Burrowing Owl habitat, no additional action would be warranted. However, if suitable habitat is located on, or immediately adjacent to, the site, all Burrowing Owl habitat should be mapped at an appropriate scale, and the following mitigation measures should be implemented:

1. In conformance with federal and state regulations regarding the protection of raptors, a pre-construction survey for Burrowing Owls, in conformance with CDFG guidelines, should be completed no more than 30 days prior to the start of construction within suitable habitat. Three additional surveys should also be completed per CDFG guidelines prior to construction.
2. No Burrowing Owls will be evicted from burrows during the nesting season (February 1 through August 31). Eviction outside the nesting season may be permitted pending evaluation of eviction plans and receipt of formal written approval from the CDFG authorizing the eviction.
3. A 250-foot (76 m) buffer, within which no new activity will be permissible, will be maintained between project activities and nesting Burrowing Owls during the nesting season. This

protected area will remain in effect until August 31, or at the CDFG's discretion and based upon monitoring evidence, until the young owls are foraging independently.

4. If accidental take (disturbance, injury, or death of owls) occurs, the CDFG will be notified immediately.

**H.6b:** Compensation for loss of Burrowing Owl habitat. If pre-construction surveys determine that Burrowing Owls occupy the site and avoiding development of occupied areas is not feasible, then habitat compensation on off-site mitigation lands should be implemented. Habitat Management (HM) lands comprising existing Burrowing Owl foraging and breeding habitat should be acquired and preserved. An area of 6.5 acres (2.6 ha) (the amount of land found to be necessary to sustain a pair or individual owl) should be secured for each pair of owls, or individual in the case of an odd number of birds. As part of an agreement with the CDFG, the project applicant should secure the performance of its mitigation duties by providing the CDFG with security in the form of funds that would:

- Allow for the acquisition and/or preservation of 6.5 acres (2.6 ha) of HM lands;
- Provide initial protection and enhancement activities on the HM lands, potentially including, but not limited to, such measures as fencing, trash clean-up, artificial burrow creation, grazing or mowing, and any habitat restoration deemed necessary by CDFG;
- Establish an endowment for the long-term management of the HM lands; and
- Reimburse the CDFG for reasonable expenses incurred as a result of the approval and implementation of this agreement.

Pending CDFG approval, HM lands providing foraging habitat for Swainson's Hawks (see "Loss of Swainson's Hawk Foraging Habitat" below) may also be used to mitigate impacts to Burrowing Owls provided the HM lands provide existing Burrowing Owl foraging and breeding habitat.

#### Hazards

**G.2:** Conduct Phase I Environmental Site Assessments prior to issuance of grading or building permit, whichever occurs first. Remediation shall be implemented prior to issuance of grading or building permit or as determined by the Phase I ESA.

#### Hydrology and Water Quality

**I.1:** The project proponent shall prepare a SWPPP for each development project under the Specific Plan (or one master SWPPP for all development) designed to reduce potential impacts to surface water quality through the construction period of all of the project components (whether or not the particular portion of the project disturbs more than one acre). The SWPPP shall emphasize measures designed to minimize erosion and off-site sedimentation. It is not required that the SWPPP be submitted to the RWQCB, but must be maintained on-site and made available to RWQCB staff upon request. The SWPPP shall include:

- Specific and detailed BMPs designed to mitigate construction-related pollutants. At minimum, BMPs shall include practices to minimize the contact of construction materials, equipment, and maintenance supplies (e.g., fuels, lubricants, paints, solvents, adhesives) with storm water. The SWPPP shall specify properly designed, centralized storage areas that keep these materials out of the rain.
- An important component of the storm water quality protection effort is knowledge of the site supervisors and workers. To educate on-site personnel and maintain awareness of the importance of storm water quality protection, site supervisors shall conduct regular tailgate meetings to discuss pollution prevention. The frequency of the meetings and required personnel attendance list shall be specified in the SWPPP.
- The City staff shall review and approve project SWPPP prior to developer obtaining a Grading and Building Permit. Project SWPPP shall include and adequately address all elements in the State General Construction Permit (Waste Discharge Requirements for Discharges of Stormwater Runoff Associated with Construction Activity, State Water Resources Control Board Order Number 99-08-DWQ).
- BMPs designed to reduce erosion of exposed soil may include, but are not limited to, soil stabilization controls, watering for dust control, perimeter silt fences, placement of hay

bales, and sediment basins. The potential for erosion is generally increased if grading is performed during the rainy season as disturbed soil can be exposed to rainfall and storm runoff. If grading must be conducted during the rainy season, the primary BMPs selected shall focus on erosion control; that is, keeping sediment on the site. End-of-pipe sediment control measures (e.g., basins and traps) shall be used only as secondary measures. Entry and egress from the excavation area shall be carefully controlled to minimize off-site tracking of sediment. Vehicle and equipment wash-down facilities shall be designed to be accessible and functional during both dry and wet conditions.

**I.2.** The City shall ensure that development under the proposed project meets all the requirements of the current Municipal NPDES Permit (NPDES Permit No. R5-2002-0132 as amended by Order No. R5-2003-0182) for operation-phase water quality treatment. The drainage plan for each proposed development under the Specific Plan shall include features and operational BMPs to reduce potential impacts to surface water quality associated with operation of the project. The final design shall include measures designed to mitigate potential water quality degradation of runoff from all portions of the completed development. In general, "passive," low-maintenance BMPs (e.g., grassy swales, porous pavements) are preferred over active filtering or treatment systems. An operations and maintenance plan shall be developed and implemented to inspect and maintain BMPs in perpetuity.

The final design team for the development project shall review and incorporate as many concepts as practicable from the City's *Guidance Manual for New Development Stormwater Quality Control Measures, Start at the Source, Design Guidance Manual for Stormwater Quality Protection* and the *California Stormwater Quality Association's Stormwater Best Management Practice Handbook, Development and Redevelopment*. BMPs to be implemented by the developers within the plan area may include, but are not limited to, the BMPs described below for the construction and operation phases of the projects:

*During the Construction Phase*

- Erosion control BMPs may include preservation of existing vegetation, use of hydraulic mulch, hydroseeding, soil binders, earth dikes and drainage swales, velocity dissipation devices and implementation of channel bank stabilization techniques;
- Temporary sediment control BMPs may include use of silt fences, sediment traps, sediment basins, check dams, fiber rolls, and drainage inlet protection;

*During the Operation Phase*

- Permanent operation-phase BMPs may include: minimization of directly connected impervious surfaces, use of permeable pavements or unit pavers, grassy bioswales, stormwater planters, covering of refuse handling areas, stenciling drainage inlets, wet ponds, and detention basins.

At a minimum, runoff from all components of the project shall receive some level of treatment prior to discharging to the detention basins. Runoff would then be detained in the basins prior to being pumped into the Modesto Irrigation District's canal.

**I.3a.** As a condition of approval of the final grading and drainage plans for the first project proposed in the plan area, the developer must acquire written approval from the MID to discharge runoff to the MID Main Canal (up to 5.0 cfs), and provide this documentation to the City of Modesto Public Works Department. If this first project, or any subsequent projects, propose to use some alternative stormwater drainage design that does not require discharge to the MID Main Canal, then additional supplemental CEQA review shall be conducted for these projects. Should MID not approve discharge to its facility an alternative design may include infiltration trenches at the bottom of the proposed ponds in combination with retention and/or retention of a higher volume (100-yr 6-day) frequency storm runoff. This design may increase the size of the detention basin(s), thus requiring additional land to be utilized for drainage, land that otherwise would be occupied by structures or parking.

**I.3b.** As a condition of approval of the final grading and drainage plans for all projects proposed within the plan area it must be demonstrated through detailed hydraulic analysis that implementation of the proposed drainage plans will:

- Include adequately sized detention facilities to accommodate anticipated runoff associated with the 100-year storm event. A licensed professional engineer shall prepare the final drainage plan for the project and plans must be submitted to the City of Modesto Public Works for review and approval.
- Include drainage components that are designed in compliance with City of Modesto standards. The grading and drainage plans shall be reviewed for compliance with these requirements by the Department of Public Works; and
- Establish a funding mechanism for maintenance and annual inspections of the detention basin, drainage ditches, and drainage inlets. Any accumulation of sediment or other debris shall be promptly removed. An annual report documenting the inspection and any remedial action conducted shall be submitted to the City of Modesto Public Works Department for review.

**I.4.** The Tivoli Specific Plan project proponent shall:

- Design and construct the proposed on-site development so that the sheetflow flooding generated from the upstream watershed that can occur in the region will be safely passed through the proposed development. These flows shall be contained within the streets and be dispersed on the downstream side of the project site in a manner that does not concentrate or increase flows, ensuring that the potential for increased erosion or flooding downstream is minimized.
- Ensure that finished floor elevations of all residential, commercial, and industrial structures be a minimum of one foot above the elevation of 100-year sheetflow flooding.
- Contribute their fair share of the cost to design and construct the proposed northeast flood control solution.

**AH-21 from the General Plan MEIR:**

If paleontological resources are discovered during earth-moving activities, the construction crew shall immediately cease work in the vicinity of the find, and the City's Planning Manager shall be notified. A qualified paleontologist shall evaluate the resource and prepare a proposed mitigation plan in accordance with Society of Vertebrate Paleontology guidelines. The proposed mitigation plan may include a field survey of additional construction areas, sampling and data recovery procedures, museum storage coordination for any specimen recovered, and a report of findings. Recommendations determined by the lead agency to be necessary and feasible shall be implemented before construction activities can resume at the site where the paleontological resources were discovered. (Policy VII.F.3[c])

**Noise-4 from the General Plan MEIR:**

Implement noise-reducing construction practices as conditions of approval where substantial construction-related noise impacts would be likely to occur, such as with extended periods of pile driving, or where construction is expected to continue or where sensitive receptors would be affected by construction noise. Conditions of approval may include, but are not limited to:

- Require construction equipment, including air compressors and pneumatic equipment to have properly maintained mufflers;
- Require impact tools to be equipped with shrouds or shields;
- Require that the quietest equipment available be used; and,
- Require selection of haul routes that affect the fewest number of people. (Policy VII-G.3.b)

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2022-452**

**RESOLUTION APPROVING THE APPLICATION OF ROSE MEDICAL  
TRANSPORTATION, AND AUTHORIZING THE ISSUANCE OF A PERMIT TO  
OPERATE AS A NON-EMERGENCY MEDICAL TRANSPORT COMPANY IN  
THE CITY OF MODESTO**

WHEREAS, Rose Medical Transportation has submitted an application to provide non-emergency medical transport services within the City of Modesto; and

WHEREAS, Rose Medical Transportation has paid the required \$1,000 filing fee and has provided all necessary information as outlined in Modesto Municipal Code Section 3-9.03-3-9.04; and

WHEREAS, the Modesto Police Department has completed background investigations regarding Rose Medical Transportation per Modesto Municipal Code Section 3-9.05; and

WHEREAS, Council approval is required for Rose Medical Transportation to function as a non-emergency medical transport service provider within the City of Modesto; and

WHEREAS, a duly noticed public hearing was held by the City Council of the City of Modesto on November 1, 2022, at 5:30 p.m. in the Tenth Street Place Chambers located at 1010 Tenth Street, Modesto, California, to consider authorizing the issuance of a permit to Rose Medical Transportation for non-emergency medical transport service within the City of Modesto; and

WHEREAS, Modesto City Council finds that Rose Medical Transportation will serve the public convenience and necessity requirements.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the application of Rose Medical Transportation and issues Rose Medical Transportation a permit to operate as a non-emergency medical transport company in 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 November, 2022, by Councilmember Kenoyer, who moved its adoption, which motion being duly seconded by Councilmember Escutia-Braaton, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Escutia-Braaton, Kenoyer, Madrigal, Ricci, Wright, Mayor Zwahlen

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST:

  
\_\_\_\_\_  
DIANE NAYARES-PEREZ, CMC,  
City Clerk

(SEAL)

APPROVED AS TO FORM:

BY:

  
\_\_\_\_\_  
JOSE M. SANCHEZ, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2022-453**

**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 8, 2022,  
AND DECLARING THE RESULTS OF SAID ELECTION AND SUCH OTHER  
MATTERS AS PROVIDED BY LAW**

WHEREAS, on Tuesday, November 8, 2022, a Regular Municipal Election was held in the City of Modesto (herein called “City”) and in the Modesto City Schools District (herein called “District”) of Stanislaus County to elect the following:

1. One City Councilmember to District 2 for a four year term;
2. One City Councilmember to District 4 for a four year term;
3. One City Councilmember to District 5 for a four year term;
4. One District Board of Education Member to Trustee Area 1 for a four year term;
5. One District Board of Education Member to Trustee Area 5 for a four year term,

WHEREAS, only one candidate for each of the Board of Education Trustee Areas 3 and 7 was nominated for their respective Trustee Areas, and pursuant to Education Code Sections 5326 and 5328, the Candidates were appointed as follows and an election on these offices was not held:

1. Chad Brown Member, Modesto Board of Education, Trustee Area 3, for a term of four years; and
2. Adolfo Lopez Member, Modesto Board of Education, Trustee Area 7, for a term of four years.

WHEREAS, as set forth in Section 4 hereof, the following ballot measures were submitted to the qualified electors in the November 8, 2022, City of Modesto election:

1. Measure G was a Charter Amendment;
2. Measure H was a Sales Tax Measure; and

WHEREAS, said election was held on Tuesday, November 8, 2022, 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 Stanislaus County Registrar of Voters, at the request of the City Council, canvassed the returns of said regular municipal election in accordance with law, and reported the results of the election to the City Clerk, which the City Clerk certified to the Council by a Certificate of Canvass and Statement of Votes dated November 23, 2022, 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:

1. Said election results as shown on the Certificate of Canvass and Statement of Votes and the results of the election are hereby ratified, confirmed, approved, and declared.

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 for Districts 2, 4 and 5, in the City of Modesto.
- (B) The whole number of votes cast for Trustee Areas 1 and 5 in the Modesto City Schools District.
- (C) The names of the persons voted for.
- (D) For what office each person was voted for.
- (E) The measures voted upon.

- (F) The number of votes given in the City and in the Modesto City Schools District to each person.
- (G) The number of votes given in the City for and against each measure.
- (H) The number of votes given at each precinct for and against each measure.

3. That, at said Regular Municipal Election, the following named persons having received a majority of the votes cast for the elective offices, as designated on **Exhibit “A”**, are hereby declared to be duly and regularly elected to such office, and the City Clerk is hereby directed to issue a Certificate of election to each such persons, certifying his/her election to the office appearing after his/her name, and to administer to each of said persons the oath of office prescribed by the Constitution and laws of the State of California and the Charter of the City, to wit:

- Eric E. Alvarez      Councilmember for a term of four years, District 2, Modesto City Council.
- Nick Bavaro        Councilmember for a term of four years, District 4, Modesto City Council.
- Jeremiah Williams   Councilmember for a term of four years, District 5, Modesto City Council.
- Cindy Marks        Member, Modesto City Schools District Board of Education, for a term of four years, Trustee Area 1.
- Chad Brown        Member, Modesto City Schools District Board of Education, for a term of four years, Trustee Area 3. *(Appointed pursuant to Education Code Section 5326)*
- Jolene Daly        Member, Modesto City Schools District Board of Education, for a term of four years, Trustee Area 5.
- Adolfo Lopez       Member, Modesto City Schools District Board of Education, for a term of four years, Trustee Area 7. *(Appointed pursuant to Education Code Section 5326)*

4. The following votes were cast for the City of Modesto Measures G and H:

Measure G Charter Amendment	Total Votes For	Total Votes Against
To promote efficiency, transparency, and modernization of City government, shall the Charter of the City of Modesto be amended to increase and clarify the powers and duties of the City Auditor, create a permanent audit committee, change the timing of the mayoral election to coincide with the statewide primary and general election, adjust the timeline for preparation and adoption of the annual budget, and make several other minor changes?	<b>34,310</b>	15,721

Measure H Sales Tax	Total Votes For	Total Votes Against
To fund general city services in the City of Modesto, such as police patrols, gang, drug, and crime prevention; fire protection, paramedic/911 emergency response; addressing homelessness; cleaning-up trash and illegal dumping; keeping streets, parks, sidewalks, landscapes and infrastructure safe, clean, and well-maintained, shall an ordinance establishing a one-cent sales tax be adopted, providing \$39,000,000 annually for general government use in Modesto until ended by voters, with citizen oversight and all money locally controlled?	<b>32,031</b>	18,897

**Measure G.** More than a majority of all the votes cast at the election for Measure G were in favor of said proposed Measure, and said Measure did carry and was approved by a majority of the qualified voters voting on said Measure.

**Measure H.** More than a majority of all the votes cast at the election for Measure H were in favor of said proposed Measure, and said Measure did carry and was approved by a majority of the qualified voters voting on said Measure.

5. The City Clerk shall enter on the records of the City Council of the City, a statement of the result of the election, showing: (1) The whole number of "votes (ballots) cast in the City; (2) The names of the persons voted for; (3) The measure(s) voted upon;

(4) For what office each person was voted for; (5) The number of votes given at each precinct to each person, and for and against each measure(s); (6) The total number of votes given to each person, and for and against each measure.

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 29th day of November, 2022, by Councilmember Kenoyer, who moved its adoption, which motion being duly seconded by Councilmember Madrigal, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Escutia-Braaton, Kenoyer, Madrigal, Ricci, Wright, Mayor Zwahlen

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST:   
DIANE NAYARES-PÉREZ, CMC,  
City Clerk

(SEAL)

APPROVED AS TO FORM:

BY:   
JOSE M. SANCHEZ, City Attorney

**CERTIFICATE OF CANVASS  
AND  
STATEMENT OF VOTE**

CITY OF MODESTO REGULAR MUNICIPAL ELECTION  
November 8, 2022

I, Diane Nayares-Perez, City Clerk of the City of Modesto, do hereby certify that I caused the Stanislaus County Clerk-Recorder's Office, on November 8, 2022, to publicly canvass the returns of the City of Modesto Regular Municipal Election held on November 8, 2022 in accordance with the law. The following are the results of said election:

CANDIDATES	NUMBER OF VOTES	PERCENTAGE OF VOTE
<b>District 2, Modesto City Council</b>		
Eric E. Alvarez	3,025	95.55%
Sebastian Jones (Write-In)	141	4.45%
Non-Qualified Write-in Candidates	91	
Total Votes Cast for District 2	3,166	
<b>District 4, Modesto City Council</b>		
Nick Bavaro	7,130	100%
Non-Qualified Write-in Candidates	312	
Total Votes Cast for District 4	7,130	
<b>District 5, Modesto City Council</b>		
Jeremiah Williams	6,415	68.25%
Naramsen Goriel	2,984	31.75%
Non-Qualified Write-in Candidates	40	
Total Votes Cast for District 5	9,399	

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MEASURES	NUMBER OF VOTES	PERCENTAGE OF VOTE
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**Measure G**

**Charter Amendment** To promote efficiency, transparency, and modernization of City government, shall the Charter of the City of Modesto be amended to increase and clarify the powers and duties of the City Auditor, create a permanent audit committee, change the timing of the mayoral election to coincide with the statewide primary and general election, adjust the timeline for preparation and adoption of the annual budget, and make several other minor changes?

34,310	YES	68.58%
15,721	No	31.42%

**Measure H**

**Sales Tax** To fund general city services in the City of Modesto, such as police patrols, gang, drug, and crime prevention; fire protection, paramedic/911 emergency response; addressing homelessness; cleaning-up trash and illegal dumping; keeping streets, parks, sidewalks, landscapes and infrastructure safe, clean, and well-maintained, shall an ordinance establishing a one-cent sales tax be adopted, providing \$39,000,000 annually for general government use in Modesto until ended by voters, with citizen oversight and all money locally controlled?

**32,031 YES**                      **62.89%**  
18,897 No                              37.11%

CANDIDATES	NUMBER OF VOTES	PERCENTAGE OF VOTE
<b>Area 1, Modesto City Schools District</b>		
Cindy Marks	5,626	57.12%
Maria Elena Magana	4,224	42.88%
Non-Qualified Write-in Candidates	51	
Total Votes Cast for Area 1	9,850	
<b>Area 5, Modesto City Schools District</b>		
Jolene Daly	4,270	50.59%
Charlene G. West	4,170	49.41%
Non-Qualified Write-in Candidates	104	
Total Votes Cast for Area 5	8,440	

Only one candidate for each of the Board of Education Trustee Areas 3 and 7 was nominated for their respective Trustee Areas, and pursuant to Education Code Section 5326 and 5328, the Candidates were appointed as follows and an election on these offices was not held:


1. Chad Brown Member, Modesto Board of Education, Trustee Area 3, for a term of four years; and
2. Adolfo Lopez Member, Modesto Board of Education, Trustee Area 7, for a term of four years.

	TOTAL REGISTERED VOTERS	TURNOUT TURNOUT	PERCENTAGE
City of Modesto Council District 2	13,894	3,886	27.97%
City of Modesto Council District 4	20,398	9,806	48.07%
City of Modesto Council District 5	20,467	10,473	51.17%

	<b>TOTAL REGISTERED VOTERS</b>	<b>TURNOUT TURNOUT</b>	<b>PERCENTAGE</b>
Measures G & H	114,257	53,327	46.67%
Modesto City Schools District, Trustee Area 1	22,971	11,397	49.61%
Modesto City Schools District, Trustee Area 5	21,883	10,075	46.04%

*The number of votes given at each precinct is set forth in the attached Stanislaus County Registrar of Voters Statement of Vote for the November 8, 2022 General Election.*

November 23, 2022

  
 DIANE NAYARES-PEREZ  
 City Clerk  
 City of Modesto



**STATEMENT OF THE VOTE  
FOR**

**STANISLAUS COUNTY**

**STATE OF CALIFORNIA**

**-CAST AT THE-**

**GENERAL ELECTION**

**-HELD-**

**TUESDAY, NOVEMBER 8, 2022**

STATE OF CALIFORNIA

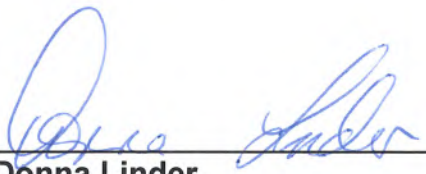
COUNTY OF STANISLAUS

} ss.

I, DONNA LINDER, County Clerk-Recorder & Registrar of Voters for the County of Stanislaus, State of California, in accordance with the provisions of Section 15301 of the California Elections Code, do hereby certify that the following is a true and correct statement of the result of the votes cast in this county at the General Election as determined by the official canvass of the returns of said election.

I hereby set my hand and official seal this 23<sup>rd</sup> day of November 2022, in the County of Stanislaus.



  
\_\_\_\_\_  
**Donna Linder**  
County Clerk-Recorder & Registrar of Voters  
County of Stanislaus  
State of California



OFFICE OF COUNTY CLERK-RECORDER

**DONNA LINDER**  
County Clerk-Recorder, Registrar of Voters &  
Commissioner of Civil Marriage

**REGISTRAR OF VOTERS  
ELECTIONS DIVISION:**

1021 "I" Street, Suite 101, Modesto, CA 95354  
Telephone: 209.525.5200, español: 209.525.5230  
Toll-free: 833.772.2260, TTY: 833.646.2136  
Facsimile: 209.525.5802

**CERTIFICATION OF  
STANISLAUS COUNTY CLERK-RECORDER  
& REGISTRAR OF VOTERS  
OF THE RESULTS OF THE CANVASS OF THE  
NOVEMBER 8, 2022,  
GENERAL ELECTION**

STATE OF CALIFORNIA


COUNTY OF STANISLAUS

} ss.

I, DONNA LINDER, County Clerk-Recorder & Registrar of Voters of the County of Stanislaus, State of California, do hereby certify that, in pursuance to the provisions of Elections Code Section 15300, et seq., I did canvass the results of the votes cast in the General Election held in said County on November 8, 2022, and that the Statement of Votes Cast, to which this certificate is attached is full, true and correct.

I hereby set my hand and official seal this 23<sup>rd</sup> day of November 2022, in the County of Stanislaus.



  
\_\_\_\_\_  
**Donna Linder**  
County Clerk-Recorder & Registrar of Voters  
County of Stanislaus  
State of California



**OFFICE OF COUNTY CLERK-RECORDER**

**DONNA LINDER**  
**County Clerk-Recorder, Registrar of Voters &**  
**Commissioner of Civil Marriage**

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Facsimile: 209.525.5802

## **HELP AMERICA VOTE ACT OF 2002**

### **CERTIFICATION OF ELECTIONS OFFICIAL**

STATE OF CALIFORNIA

COUNTY OF STANISLAUS

} ss.

Pursuant to the statewide voter registration list requirements set forth in the Help America Vote Act of 2002 (HAVA) 52 U.S.C. § 21083), I, DONNA LINDER, County Clerk-Recorder & Registrar of Voters for the County of Stanislaus, State of California, hereby certify that I complied with all provisions of Chapter 2 of Division 7 of Title 2 of the California Code of Regulations for the General Election held on November 8, 2022, in the County of Stanislaus, State of California, and all elections consolidated therewith.

I hereby set my hand and official seal this 23<sup>rd</sup> day of November 2022, in the County of Stanislaus.



A handwritten signature in blue ink, appearing to read "Donna Linder".

**Donna Linder**  
County Clerk-Recorder & Registrar of Voters  
County of Stanislaus  
State of California

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**Cumulative Results**

**STANISLAUS COUNTY, CALIFORNIA**

**Official Results**

\*\*OFFICIAL BALLOTS\*\*

**GENERAL ELECTION**

**Registered Voters**

132142 of 282393 = 46.79%

**Precincts Reporting**

199 of 199 = 100.00%

Run Time 5:16 PM  
Run Date 11/23/2022

11/8/2022

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**Modesto City Schools District Governing Board Member - Area 1 - Vote for ONE**

Precincts			Voters		
Counted	Total	Percent	Ballots	Registered	Percent
15	15	100.00%	11,397	22,971	49.61%

Choice	Party	Vote Center		Vote by Mail		Total	
CINDY MARKS		411	52.09%	5,215	57.55%	5,626	57.12%
MARIA ELENA MAGANA		378	47.91%	3,846	42.45%	4,224	42.88%
Cast Votes:		789	100.00%	9,061	100.00%	9,850	100.00%
Undervotes:		113		1,374		1,487	
Overvotes:		1		0		1	
Rejected write-in votes:		9		42		51	
Unresolved write-in votes:		0		0		0	

**Modesto City Schools District Governing Board Member - Area 5 - Vote for ONE**

Precincts			Voters		
Counted	Total	Percent	Ballots	Registered	Percent
22	22	100.00%	10,075	21,883	46.04%

Choice	Party	Vote Center		Vote by Mail		Total	
JOLENE DALY		355	64.08%	3,915	49.64%	4,270	50.59%
CHARLENE G. WEST		199	35.92%	3,971	50.36%	4,170	49.41%
Cast Votes:		554	100.00%	7,886	100.00%	8,440	100.00%
Undervotes:		110		1,402		1,512	
Overvotes:		1		2		3	
Rejected write-in votes:		8		96		104	
Unresolved write-in votes:		0		0		0	

**Cumulative Results**

**STANISLAUS COUNTY, CALIFORNIA**

**Official Results**

\*\*OFFICIAL BALLOTS\*\*

**GENERAL ELECTION**

**Registered Voters**

132142 of 282393 = 46.79%

**Precincts Reporting**

199 of 199 = 100.00%

Run Time 5:16 PM

11/8/2022

Run Date 11/23/2022

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**City of Modesto Member, City Council - District 2 - Vote for ONE**

Precincts			Voters		
Counted	Total	Percent	Ballots	Registered	Percent
13	13	100.00%	3,886	13,894	27.97%

Choice	Party	Vote Center		Vote by Mail		Total	
ERIC E. ALVAREZ		216	96.43%	2,809	95.48%	3,025	95.55%
Sebastian Jones (W)		8	3.57%	133	4.52%	141	4.45%
Cast Votes:		224	100.00%	2,942	100.00%	3,166	100.00%
Undervotes:		59		562		621	
Overvotes:		0		1		1	
Rejected write-in votes:		11		80		91	
Unresolved write-in votes:		0		0		0	

**City of Modesto Member, City Council - District 4 - Vote for ONE**

Precincts			Voters		
Counted	Total	Percent	Ballots	Registered	Percent
12	12	100.00%	9,806	20,398	48.07%

Choice	Party	Vote Center		Vote by Mail		Total	
NICK BAVARO		422	100.00%	6,708	100.00%	7,130	100.00%
Cast Votes:		422	100.00%	6,708	100.00%	7,130	100.00%
Undervotes:		172		2,169		2,341	
Overvotes:		0		2		2	
Rejected write-in votes:		22		290		312	
Unresolved write-in votes:		0		0		0	

**Cumulative Results**

**STANISLAUS COUNTY, CALIFORNIA**

**Official Results**

\*\*OFFICIAL BALLOTS\*\*

**GENERAL ELECTION**

**Registered Voters**

132142 of 282393 = 46.79%

**Precincts Reporting**

199 of 199 = 100.00%

Run Time 5:16 PM

11/8/2022

Run Date 11/23/2022

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**City of Modesto Member, City Council - District 5 - Vote for ONE**

Precincts			Voters		
Counted	Total	Percent	Ballots	Registered	Percent
8	8	100.00%	10,473	20,467	51.17%

Choice	Party	Vote Center		Vote by Mail		Total	
JEREMIAH WILLIAMS		473	77.92%	5,942	67.58%	6,415	68.25%
NARAMSEN GORIEL		134	22.08%	2,850	32.42%	2,984	31.75%
Cast Votes:		607	100.00%	8,792	100.00%	9,399	100.00%
Undervotes:		83		926		1,009	
Overvotes:		0		2		2	
Rejected write-in votes:		6		34		40	
Unresolved write-in votes:		0		0		0	

**City of Patterson Mayor - Vote for ONE**

Precincts			Voters		
Counted	Total	Percent	Ballots	Registered	Percent
4	4	100.00%	4,845	11,701	41.41%

Choice	Party	Vote Center		Vote by Mail		Total	
MICHAEL S. CLAUZEL		282	64.38%	2,451	59.13%	2,733	59.63%
DOMINIC A. FARINHA		154	35.16%	1,689	40.75%	1,843	40.21%
Zaid "Zedrick" Khan (W)		2	0.46%	5	0.12%	7	0.15%
Cast Votes:		438	100.00%	4,145	100.00%	4,583	100.00%
Undervotes:		18		191		209	
Overvotes:		0		0		0	
Rejected write-in votes:		2		47		49	
Unresolved write-in votes:		0		0		0	

**Cumulative Results**

**STANISLAUS COUNTY, CALIFORNIA**

**Official Results**

\*\*OFFICIAL BALLOTS\*\*

**GENERAL ELECTION**

**Registered Voters**

132142 of 282393 = 46.79%

**Precincts Reporting**

199 of 199 = 100.00%

Run Time 5:16 PM  
Run Date 11/23/2022

11/8/2022

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**City of Waterford Measure B**

Precincts			Voters		
Counted	Total	Percent	Ballots	Registered	Percent
1	1	100.00%	2,009	4,507	44.58%

Choice	Party	Vote Center		Vote by Mail		Total	
YES		111	50.00%	935	56.22%	1,046	55.49%
NO		111	50.00%	728	43.78%	839	44.51%
Cast Votes:		222	100.00%	1,663	100.00%	1,885	100.00%
Undervotes:		9		114		123	
Overvotes:		0		1		1	
Rejected write-in votes:		0		0		0	
Unresolved write-in votes:		0		0		0	

**City of Modesto Measure G**

Precincts			Voters		
Counted	Total	Percent	Ballots	Registered	Percent
52	52	100.00%	53,327	114,257	46.67%

Choice	Party	Vote Center		Vote by Mail		Total	
YES		1,848	56.81%	32,462	69.40%	34,310	68.58%
NO		1,405	43.19%	14,316	30.60%	15,721	31.42%
Cast Votes:		3,253	100.00%	46,778	100.00%	50,031	100.00%
Undervotes:		232		2,810		3,042	
Overvotes:		1		7		8	
Rejected write-in votes:		0		0		0	
Unresolved write-in votes:		0		0		0	

**Cumulative Results**

**STANISLAUS COUNTY, CALIFORNIA**

**Official Results**

\*\*OFFICIAL BALLOTS\*\*

**GENERAL ELECTION**

**Registered Voters**

132142 of 282393 = 46.79%

**Precincts Reporting**

199 of 199 = 100.00%

Run Time 5:16 PM

11/8/2022

Run Date 11/23/2022

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**City of Modesto Measure H**

Precincts			Voters		
Counted	Total	Percent	Ballots	Registered	Percent
52	52	100.00%	53,327	114,257	46.67%

Choice	Party	Vote Center		Vote by Mail		Total	
YES		1,957	58.86%	30,074	63.18%	32,031	62.89%
NO		1,368	41.14%	17,529	36.82%	18,897	37.11%
Cast Votes:		3,325	100.00%	47,603	100.00%	50,928	100.00%
Undervotes:		158		1,983		2,141	
Overvotes:		3		9		12	
Rejected write-in votes:		0		0		0	
Unresolved write-in votes:		0		0		0	

**Knights Ferry Elementary School District Measure C**

Precincts			Voters		
Counted	Total	Percent	Ballots	Registered	Percent
3	3	100.00%	265	405	65.43%

Choice	Party	Vote Center		Vote by Mail		Total	
NO		15	78.95%	146	62.93%	161	64.14%
YES		4	21.05%	86	37.07%	90	35.86%
Cast Votes:		19	100.00%	232	100.00%	251	100.00%
Undervotes:		0		13		13	
Overvotes:		0		1		1	
Rejected write-in votes:		0		0		0	
Unresolved write-in votes:		0		0		0	

**GENERAL ELECTION  
TUESDAY, NOVEMBER 8, 2022  
STANISLAUS COUNTY**

**VOTES CAST FOR A CERTIFIED WRITE-IN CANDIDATE  
ARE INCLUDED IN THE SUMMARY RESULTS FOR EACH OFFICE**

**QUALIFIED WRITE-IN CANDIDATES ARE INDICATED WITH (W)**

**SEE INDEX PAGE FOR PRECINCT LEVEL RESULTS**



## 1% Post Election Manual Tally Report General Election – November 8, 2022

Pursuant to California Elections Code 15360, The Stanislaus County Registrar of Voters will conduct a random drawing to determine which ballots will be hand tallied in the 1% Manual Tally to verify accuracy of the ballot counting equipment used at vote centers and at our central count location. Random draw was conducted on **November 10, 2022**, at 11:00 a.m.

- For vote center ballots: 1% of the vote centers will be randomly selected and all ballots cast at that location will be hand tallied.
- For vote by mail ballots: 1% of batches scanned at the central count location during the semifinal canvass will be randomly selected.
  - Central count utilized three color coded scanning groups: Orange, Yellow and Green. Each grouping will be drawn separately to ensure 1% of batches is randomly drawn from each scanning group.

721 Yellow Batches	
Draw #	Batch Number - Ballot Count
1	Yellow 226 - 4 ballots
2	Yellow 139 - 24 ballots
3	Yellow 305 - 8 ballots
4	Yellow 141 - 23 ballots
5	Yellow 470 - 33 ballots
6	Yellow 34 - 47 ballots
7	Yellow 401 - 46 ballots
8	Yellow 299 - 36 ballots

739 Green Batches	
Draw #	Batch Number - Ballot Count
1	Green 322 - 30 ballots
2	Green 646 - 28 ballots
3	Green 242 - 36 ballots
4	Green 722 - 12 ballots
5	Green 589 - 7 ballots
6	Green 346 - 25 ballots
7	Green 98 - 36 ballots
8	Green 325 - 38 ballots

527 Orange Batches	
Draw #	Batch Number - Ballot Count
1	Orange 460 - 1 ballots
2	Orange 190 - 19 ballots
3	Orange 509 - 12 ballots
4	Orange 207 - 39 ballots
5	Orange 193 - 26 ballots
6	Orange 249 - 9 ballots

29 Vote Centers	
Draw #	Vote Center - Ballot Count
1	VC-18 L. J. Newman Memorial Building - 271 ballots

**16 additional batches** with 280 ballots were also hand tallied to ensure all contests in Stanislaus County were included in the manual tally process.

1% manual tally results matched except for voter marking error (example: marking ballot with pencil or marking ballot outside of designated space) where the ballot was corrected, votes counted, and the results updated. In the end, the results from the manual tally matched the machine results with 100% accuracy. Elections Code 15360(e)

## Local Measure Ballot Question - November 8, 2022

### Measure B - City of Waterford (Mayoral Term of Office) *Passage Requirement - Majority (50%+1)*

Ballot Question: Shall the elective mayor for the City of Waterford serve a four-year term?

### Measure C - Knights Ferry Elementary School District (Reduce Number of Elected Board Members) *Passage Requirement - Majority (50%+1)*

Ballot Question: Shall the measure for decreasing the number of members of the governing board of Knights Ferry Elementary School District from five to three be adopted?

### Measure D - Westside Community Health Care District (Special Tax) *Passage Requirement - 2/3*

Ballot Question: To expand vocational career and technical education facilities; increase labs and training sites to prepare students for college and future jobs; and build new classrooms to relieve overcrowding; shall Patterson Joint Unified School District's bond authorizing \$74 million be approved with legal rates, projected levies below \$57/ \$100,000 of assessed valuation (generating \$3.9 million/ year while bonds are outstanding), annual audits, independent oversight and all funds spent locally with no money taken by the State and spent elsewhere? Bonds – Yes      Bonds – No

### Measure E - Patterson Joint Unified School District (Bond Measure) *Passage Requirement - 55%*

Ballot Question: To expand vocational career and technical education facilities; increase labs and training sites to prepare students for college and future jobs; and build new classrooms to relieve overcrowding; shall Patterson Joint Unified School District's bond authorizing \$74 million be approved with legal rates, projected levies below \$57/ \$100,000 of assessed valuation (generating \$3.9 million/ year while bonds are outstanding), annual audits, independent oversight and all funds spent locally with no money taken by the State and spent elsewhere? Bonds – Yes      Bonds – No

### Measure G - City of Modesto (Charter Amendment) *Passage Requirement - Majority (50%+1)*

Ballot Question: To promote efficiency, transparency, and modernization of City government, shall the Charter of the City of Modesto be amended to increase and clarify the powers and duties of the City Auditor, create a permanent audit committee, change the timing of the mayoral election to coincide with the statewide primary and general election, adjust the timeline for preparation and adoption of the annual budget, and make several other minor changes?

### Measure H - City of Modesto (Sales Tax) *Passage Requirement - Majority (50%+1)*

Ballot Question: To fund general city services in the City of Modesto, such as police patrols, gang, drug, and crime prevention; fire protection, paramedic/911 emergency response; addressing homelessness; cleaning-up trash and illegal dumping; keeping streets, parks, sidewalks, landscapes and infrastructure safe, clean, and well-maintained, shall an ordinance establishing a one-cent sales tax be adopted, providing \$39,000,000 annually for general government use in Modesto until ended by voters, with citizen oversight and all money locally controlled?



DONNA LINDER
County Clerk-Recorder, Registrar of Voters &
Commissioner of Civil Marriage

REGISTRAR OF VOTERS
ELECTIONS DIVISION:

1021 "I" Street, Suite 101, Modesto, CA 95354
Telephone: 209.525.5200, español: 209.525.5230
Toll-free: 833.772.2260, TTY: 833.646.2136
Facsimile: 209.525.5802

STATE OF CALIFORNIA }
County of Stanislaus } ss.

CERTIFICATE OF FACTS

I, DONNA LINDER, County Clerk-Recorder & Registrar of Voters of the County of Stanislaus, State of California, do hereby certify that "Measure G" was submitted to the known qualified electors of the City of Modesto at the General Election held on November 8, 2022.

The results of the Official Canvass conducted by this office are as follows:

Table with 2 columns: YES VOTES (34,310) and NO VOTES (15,721)

And that the conduct of the election and canvass of the ballots was in every respect in accordance with the election laws of the State of California.

I hereby set my hand and official seal this 23rd day of November 2022 in the County of Stanislaus.



Handwritten signature of Donna Linder
Donna Linder
County Clerk-Recorder & Registrar of Voters
County of Stanislaus
State of California



OFFICE OF COUNTY CLERK-RECORDER

DONNA LINDER
County Clerk-Recorder, Registrar of Voters &
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STATE OF CALIFORNIA } ss.
County of Stanislaus

CERTIFICATE OF FACTS

I, DONNA LINDER, County Clerk-Recorder & Registrar of Voters of the County of Stanislaus, State of California, do hereby certify that "Measure H" was submitted to the known qualified electors of the City of Modesto at the General Election held on November 8, 2022.

The results of the Official Canvass conducted by this office are as follows:

Table with 2 columns: YES VOTES (32,031) and NO VOTES (18,897)

And that the conduct of the election and canvass of the ballots was in every respect in accordance with the election laws of the State of California.

I hereby set my hand and official seal this 23rd day of November 2022 in the County of Stanislaus.



Handwritten signature of Donna Linder
Donna Linder
County Clerk-Recorder & Registrar of Voters
County of Stanislaus
State of California

Modesto City Schools District Governing Board Member - Area 1

Precinct	Cumulative Totals			CINDY MARKS	MARIA ELENA MAGANA
	Registration	Ballots Cast	Turnout (%)		
107005	1,545	769	49.8	336	337
107008	5	3	60.0	0	3
116003	10	9	90.0	6	3
116007	251	168	66.9	93	46
116008	4	3	75.0	2	0
116010	132	78	59.1	42	21
116012	223	104	46.6	51	36
117069	7,438	3,748	50.4	1,979	1,276
117095	5,519	2,702	49.0	1,480	849
127002	6,380	2,765	43.3	961	1,453
127008	372	265	71.2	173	55
127012	4	4	100.0	3	1
216003	1,066	760	71.3	490	138
227008	22	18	81.8	10	6
316003	0	1	0.0	0	0
<b>Vote Center Totals</b>	22,971	912	4.0	411	378
<b>Vote by Mail Totals</b>	22,971	10,485	45.6	5,215	3,846
<b>Grand Totals</b>	22,971	11,397	49.6	5,626	4,224

Modesto City Schools District Governing Board Member - Area 1

Vote Center Totals	Registration	Ballots Cast	Turnout (%)	CINDY MARKS	MARIA ELENA MAGANA
District					
STANISLAUS COUNTY, CALIFORNIA	22,971	912	4.0	411	378
5TH CONGRESSIONAL DISTRICT	22,577	889	3.9	399	369
9TH ASSEMBLY DISTRICT	10,010	504	5.0	219	217
13TH CONGRESSIONAL DISTRICT	394	23	5.8	12	9
22ND ASSEMBLY DISTRICT	12,961	408	3.1	192	161
4TH SENATORIAL DISTRICT	22,971	912	4.0	411	378
STATE BOARD OF EQUALIZATION DISTRICT 1	22,971	912	4.0	411	378
3RD SUPERVISORIAL DISTRICT	21,289	789	3.7	334	357
4TH SUPERVISORIAL DISTRICT	1,682	123	7.3	77	21
Y.C.C.D. TRUSTEE AREA 2	1,327	105	7.9	69	16
CITY OF MODESTO	12,957	406	3.1	191	160
UNINCORPORATED AREA	10,014	506	5.1	220	218
COUNTYWIDE	22,971	912	4.0	411	378
STATEWIDE DISTRICT	22,971	912	4.0	411	378
MODESTO CITY SCHOOLS	22,971	912	4.0	411	378
MODESTO CITY SCHOOLS TRUSTEE AREA 1	22,971	912	4.0	411	378
MODESTO IRRIGATION DIST, DIV 3	479	16	3.3	5	7
MODESTO IRRIGATION DIST, DIV 4	21,400	796	3.7	339	357
<b>Vote Center Totals</b>	22,971	912	4.0	411	378

Modesto City Schools District Governing Board Member - Area 1

Vote by Mail  
Totals

District	Registration	Ballots Cast	Turnout (%)	CINDY MARKS	MARIA ELENA MAGANA
STANISLAUS COUNTY, CALIFORNIA	22,971	10,485	45.6	5215	3846
5TH CONGRESSIONAL DISTRICT	22,577	10,225	45.3	5044	3794
9TH ASSEMBLY DISTRICT	10,010	4,439	44.3	1945	1881
13TH CONGRESSIONAL DISTRICT	394	260	66.0	171	52
22ND ASSEMBLY DISTRICT	12,961	6,046	46.6	3270	1965
4TH SENATORIAL DISTRICT	22,971	10,485	45.6	5215	3846
STATE BOARD OF EQUALIZATION DISTRICT 1	22,971	10,485	45.6	5215	3846
3RD SUPERVISORIAL DISTRICT	21,289	9,488	44.6	4610	3623
4TH SUPERVISORIAL DISTRICT	1,682	997	59.3	605	223
Y.C.C.D. TRUSTEE AREA 2	1,327	832	62.7	520	171
CITY OF MODESTO	12,957	6,044	46.6	3268	1965
UNINCORPORATED AREA	10,014	4,441	44.3	1947	1881
COUNTYWIDE	22,971	10,485	45.6	5215	3846
STATEWIDE DISTRICT	22,971	10,485	45.6	5215	3846
MODESTO CITY SCHOOLS	22,971	10,485	45.6	5215	3846
MODESTO CITY SCHOOLS TRUSTEE AREA 1	22,971	10,485	45.6	5215	3846
MODESTO IRRIGATION DIST, DIV 3	479	259	54.1	139	78
MODESTO IRRIGATION DIST, DIV 4	21,400	9,544	44.6	4641	3638
<b>Vote by Mail Totals</b>	22,971	10,485	45.6	5,215	3,846

Modesto City Schools District Governing Board Member - Area 1

Grand Totals

District	Registration	Ballots Cast	Turnout (%)	CINDY MARKS	MARIA ELENA MAGANA
STANISLAUS COUNTY, CALIFORNIA	22,971	11,397	49.6	5626	4224
5TH CONGRESSIONAL DISTRICT	22,577	11,114	49.2	5443	4163
9TH ASSEMBLY DISTRICT	10,010	4,943	49.4	2164	2098
13TH CONGRESSIONAL DISTRICT	394	283	71.8	183	61
22ND ASSEMBLY DISTRICT	12,961	6,454	49.8	3462	2126
4TH SENATORIAL DISTRICT	22,971	11,397	49.6	5626	4224
STATE BOARD OF EQUALIZATION DISTRICT 1	22,971	11,397	49.6	5626	4224
3RD SUPERVISORIAL DISTRICT	21,289	10,277	48.3	4944	3980
4TH SUPERVISORIAL DISTRICT	1,682	1,120	66.6	682	244
Y.C.C.D. TRUSTEE AREA 2	1,327	937	70.6	589	187
CITY OF MODESTO	12,957	6,450	49.8	3459	2125
UNINCORPORATED AREA	10,014	4,947	49.4	2167	2099
COUNTYWIDE	22,971	11,397	49.6	5626	4224
STATEWIDE DISTRICT	22,971	11,397	49.6	5626	4224
MODESTO CITY SCHOOLS	22,971	11,397	49.6	5626	4224
MODESTO CITY SCHOOLS TRUSTEE AREA 1	22,971	11,397	49.6	5626	4224
MODESTO IRRIGATION DIST, DIV 3	479	275	57.4	144	85
MODESTO IRRIGATION DIST, DIV 4	21,400	10,340	48.3	4980	3995
<b>Vote Center Totals</b>	22,971	912	4.0	411	378
<b>Vote by Mail Totals</b>	22,971	10,485	45.6	5,215	3,846
<b>Grand Totals</b>	22,971	11,397	49.6	5,626	4,224

Modesto City Schools District Governing Board Member - Area 5

Precinct	Cumulative Totals			JOLENE DALY	CHARLENE G. WEST
	Registration	Ballots Cast	Turnout (%)		
101001	70	30	42.9	18	8
101003	141	30	21.3	21	7
111003	1,584	569	35.9	269	227
111004	59	24	40.7	9	7
111005	970	535	55.2	221	220
111006	12	8	66.7	1	5
111008	1	1	100.0	0	1
111009	30	15	50.0	5	3
117001	2,214	755	34.1	348	307
117007	2,276	1,395	61.3	508	641
117019	2,975	1,603	53.9	583	755
117020	774	305	39.4	154	99
117023	650	129	19.8	80	35
117053	4,561	1,645	36.1	808	606
117074	3,404	1,813	53.3	740	750
117083	1,559	898	57.6	373	355
117087	13	3	23.1	1	2
117114	0	0	0.0	0	0
117187	224	142	63.4	53	69
117203	0	0	0.0	0	0
117204	311	144	46.3	60	63
211005	55	31	56.4	18	10
<b>Vote Center Totals</b>	21,883	675	3.1	355	199
<b>Vote by Mail Totals</b>	21,883	9,400	43.0	3,915	3,971
<b>Grand Totals</b>	21,883	10,075	46.0	4,270	4,170

Modesto City Schools District Governing Board Member - Area 5

Vote Center Totals	Registration	Ballots Cast	Turnout (%)	JOLENE DALY	CHARLENE G. WEST
District					
STANISLAUS COUNTY, CALIFORNIA	21,883	675	3.1	355	199
5TH CONGRESSIONAL DISTRICT	11,846	426	3.6	214	133
9TH ASSEMBLY DISTRICT	1,025	40	3.9	22	11
13TH CONGRESSIONAL DISTRICT	10,037	249	2.5	141	66
22ND ASSEMBLY DISTRICT	20,858	635	3.0	333	188
4TH SENATORIAL DISTRICT	21,883	675	3.1	355	199
STATE BOARD OF EQUALIZATION DISTRICT 1	21,883	675	3.1	355	199
1ST SUPERVISORIAL DISTRICT	6,341	236	3.7	126	67
4TH SUPERVISORIAL DISTRICT	13,829	377	2.7	194	113
5TH SUPERVISORIAL DISTRICT	1,713	62	3.6	35	19
Y.C.C.D. TRUSTEE AREA 2	12,404	396	3.2	214	109
CITY OF MODESTO	18,961	566	3.0	294	168
UNINCORPORATED AREA	2,922	109	3.7	61	31
COUNTYWIDE	21,883	675	3.1	355	199
STATEWIDE DISTRICT	21,883	675	3.1	355	199
MODESTO CITY SCHOOLS	21,883	675	3.1	355	199
MODESTO CITY SCHOOLS TRUSTEE AREA 5	21,883	675	3.1	355	199
MODESTO IRRIGATION DIST, DIV 2	3,903	112	2.9	58	35
MODESTO CITY COUNCIL DISTRICT 2	663	6	0.9	3	3
MODESTO CITY COUNCIL DISTRICT 4	16,739	510	3.0	261	155
<b>Vote Center Totals</b>	21,883	675	3.1	355	199

Modesto City Schools District Governing Board Member - Area 5

Vote by Mail  
Totals

District	Registration	Ballots Cast	Turnout (%)	JOLENE DALY	CHARLENE G. WEST
STANISLAUS COUNTY, CALIFORNIA	21,883	9,400	43.0	3915	3971
5TH CONGRESSIONAL DISTRICT	11,846	6,168	52.1	2352	2743
9TH ASSEMBLY DISTRICT	1,025	526	51.3	217	219
13TH CONGRESSIONAL DISTRICT	10,037	3,232	32.2	1563	1228
22ND ASSEMBLY DISTRICT	20,858	8,874	42.5	3698	3752
4TH SENATORIAL DISTRICT	21,883	9,400	43.0	3915	3971
STATE BOARD OF EQUALIZATION DISTRICT 1	21,883	9,400	43.0	3915	3971
1ST SUPERVISORIAL DISTRICT	6,341	3,208	50.6	1292	1339
4TH SUPERVISORIAL DISTRICT	13,829	5,631	40.7	2362	2409
5TH SUPERVISORIAL DISTRICT	1,713	561	32.7	261	223
Y.C.C.D. TRUSTEE AREA 2	12,404	5,254	42.4	2265	2134
CITY OF MODESTO	18,961	8,266	43.6	3414	3514
UNINCORPORATED AREA	2,922	1,134	38.8	501	457
COUNTYWIDE	21,883	9,400	43.0	3915	3971
STATEWIDE DISTRICT	21,883	9,400	43.0	3915	3971
MODESTO CITY SCHOOLS	21,883	9,400	43.0	3915	3971
MODESTO CITY SCHOOLS TRUSTEE AREA 5	21,883	9,400	43.0	3915	3971
MODESTO IRRIGATION DIST, DIV 2	3,903	1,829	46.9	701	828
MODESTO CITY COUNCIL DISTRICT 2	663	126	19.0	78	34
MODESTO CITY COUNCIL DISTRICT 4	16,739	7,292	43.6	2993	3135
<b>Vote by Mail Totals</b>	21,883	9,400	43.0	3,915	3,971

Modesto City Schools District Governing Board Member - Area 5

Grand Totals

District	Registration	Ballots Cast	Turnout (%)	JOLENE DALY	CHARLENE G. WEST
STANISLAUS COUNTY, CALIFORNIA	21,883	10,075	46.0	4270	4170
5TH CONGRESSIONAL DISTRICT	11,846	6,594	55.7	2566	2876
9TH ASSEMBLY DISTRICT	1,025	566	55.2	239	230
13TH CONGRESSIONAL DISTRICT	10,037	3,481	34.7	1704	1294
22ND ASSEMBLY DISTRICT	20,858	9,509	45.6	4031	3940
4TH SENATORIAL DISTRICT	21,883	10,075	46.0	4270	4170
STATE BOARD OF EQUALIZATION DISTRICT 1	21,883	10,075	46.0	4270	4170
1ST SUPERVISORIAL DISTRICT	6,341	3,444	54.3	1418	1406
4TH SUPERVISORIAL DISTRICT	13,829	6,008	43.4	2556	2522
5TH SUPERVISORIAL DISTRICT	1,713	623	36.4	296	242
Y.C.C.D. TRUSTEE AREA 2	12,404	5,650	45.5	2479	2243
CITY OF MODESTO	18,961	8,832	46.6	3708	3682
UNINCORPORATED AREA	2,922	1,243	42.5	562	488
COUNTYWIDE	21,883	10,075	46.0	4270	4170
STATEWIDE DISTRICT	21,883	10,075	46.0	4270	4170
MODESTO CITY SCHOOLS	21,883	10,075	46.0	4270	4170
MODESTO CITY SCHOOLS TRUSTEE AREA 5	21,883	10,075	46.0	4270	4170
MODESTO IRRIGATION DIST, DIV 2	3,903	1,941	49.7	759	863
MODESTO CITY COUNCIL DISTRICT 2	663	132	19.9	81	37
MODESTO CITY COUNCIL DISTRICT 4	16,739	7,802	46.6	3254	3290
<b>Vote Center Totals</b>	21,883	675	3.1	355	199
<b>Vote by Mail Totals</b>	21,883	9,400	43.0	3,915	3,971
<b>Grand Totals</b>	21,883	10,075	46.0	4,270	4,170

City of Modesto Member, City Council - District 2

Cumulative Totals				
Precinct	Registration	Ballots Cast	Turnout (%)	ERIC E. ALVAREZ
117003	3,126	821	26.3	679
117004	3,854	902	23.4	726
117005	1,769	459	25.9	356
117006	2,732	938	34.3	676
117023	650	129	19.8	108
117025	924	393	42.5	289
117026	18	3	16.7	3
117049	2	0	0.0	0
117087	13	3	23.1	3
117114	0	0	0.0	0
117135	805	237	29.4	185
117170	0	0	0.0	0
117196	1	1	100.0	0
<b>Vote Center Totals</b>	13,894	294	2.1	216
<b>Vote by Mail Totals</b>	13,894	3,592	25.9	2,809
<b>Grand Totals</b>	13,894	3,886	28.0	3,025

City of Modesto Member, City Council - District 2

Vote Center Totals	Registration	Ballots Cast	Turnout (%)	ERIC E. ALVAREZ
District				
STANISLAUS COUNTY, CALIFORNIA	13,894	294	2.1	216
5TH CONGRESSIONAL DISTRICT	1,747	74	4.2	58
13TH CONGRESSIONAL DISTRICT	12,147	220	1.8	158
22ND ASSEMBLY DISTRICT	13,894	294	2.1	216
4TH SENATORIAL DISTRICT	13,894	294	2.1	216
STATE BOARD OF EQUALIZATION DISTRICT 1	13,894	294	2.1	216
2ND SUPERVISORIAL DISTRICT	1	0	0.0	0
3RD SUPERVISORIAL DISTRICT	7,391	142	1.9	98
4TH SUPERVISORIAL DISTRICT	3,374	100	3.0	80
5TH SUPERVISORIAL DISTRICT	3,128	52	1.7	38
COUNTY BOARD OF EDUCATION TRUSTEE AREA 2	1	0	0.0	0
CITY OF MODESTO	13,894	294	2.1	216
COUNTYWIDE	13,894	294	2.1	216
STATEWIDE DISTRICT	13,894	294	2.1	216
CERES UNIFIED TRUSTEE AREA 3	2	0	0.0	0
TURLOCK UNIFIED TRUSTEE AREA 6	1	0	0.0	0
MODESTO CITY SCHOOLS	13,891	294	2.1	216
MODESTO CITY SCHOOLS TRUSTEE AREA 5	663	6	0.9	6
MODESTO IRRIGATION DIST, DIV 2	937	60	6.4	49
TURLOCK IRRIGATION DIST, DIV 2	0	0	0.0	0
MODESTO CITY COUNCIL DISTRICT 2	13,894	294	2.1	216
<b>Vote Center Totals</b>	13,894	294	2.1	216

City of Modesto Member, City Council - District 2

Vote by Mail  
Totals

District	Registration	Ballots Cast	Turnout (%)	ERIC E. ALVAREZ
STANISLAUS COUNTY, CALIFORNIA	13,894	3,592	25.9	2809
5TH CONGRESSIONAL DISTRICT	1,747	559	32.0	419
13TH CONGRESSIONAL DISTRICT	12,147	3,033	25.0	2390
22ND ASSEMBLY DISTRICT	13,894	3,592	25.9	2809
4TH SENATORIAL DISTRICT	13,894	3,592	25.9	2809
STATE BOARD OF EQUALIZATION DISTRICT 1	13,894	3,592	25.9	2809
2ND SUPERVISORIAL DISTRICT	1	1	100.0	0
3RD SUPERVISORIAL DISTRICT	7,391	1,935	26.2	1489
4TH SUPERVISORIAL DISTRICT	3,374	887	26.3	679
5TH SUPERVISORIAL DISTRICT	3,128	769	24.6	641
COUNTY BOARD OF EDUCATION TRUSTEE AREA 2	1	1	100.0	0
CITY OF MODESTO	13,894	3,592	25.9	2809
COUNTYWIDE	13,894	3,592	25.9	2809
STATEWIDE DISTRICT	13,894	3,592	25.9	2809
CERES UNIFIED TRUSTEE AREA 3	2	0	0.0	0
TURLOCK UNIFIED TRUSTEE AREA 6	1	1	100.0	0
MODESTO CITY SCHOOLS	13,891	3,591	25.9	2809
MODESTO CITY SCHOOLS TRUSTEE AREA 5	663	126	19.0	105
MODESTO IRRIGATION DIST, DIV 2	937	336	35.9	243
TURLOCK IRRIGATION DIST, DIV 2	0	0	0.0	0
MODESTO CITY COUNCIL DISTRICT 2	13,894	3,592	25.9	2809
<b>Vote by Mail Totals</b>	13,894	3,592	25.9	2,809

City of Modesto Member, City Council - District 2

Grand Totals

District	Registration	Ballots Cast	Turnout (%)	ERIC E. ALVAREZ
STANISLAUS COUNTY, CALIFORNIA	13,894	3,886	28.0	3025
5TH CONGRESSIONAL DISTRICT	1,747	633	36.2	477
13TH CONGRESSIONAL DISTRICT	12,147	3,253	26.8	2548
22ND ASSEMBLY DISTRICT	13,894	3,886	28.0	3025
4TH SENATORIAL DISTRICT	13,894	3,886	28.0	3025
STATE BOARD OF EQUALIZATION DISTRICT 1	13,894	3,886	28.0	3025
2ND SUPERVISORIAL DISTRICT	1	1	100.0	0
3RD SUPERVISORIAL DISTRICT	7,391	2,077	28.1	1587
4TH SUPERVISORIAL DISTRICT	3,374	987	29.3	759
5TH SUPERVISORIAL DISTRICT	3,128	821	26.2	679
COUNTY BOARD OF EDUCATION TRUSTEE AREA 2	1	1	100.0	0
CITY OF MODESTO	13,894	3,886	28.0	3025
COUNTYWIDE	13,894	3,886	28.0	3025
STATEWIDE DISTRICT	13,894	3,886	28.0	3025
CERES UNIFIED TRUSTEE AREA 3	2	0	0.0	0
TURLOCK UNIFIED TRUSTEE AREA 6	1	1	100.0	0
MODESTO CITY SCHOOLS	13,891	3,885	28.0	3025
MODESTO CITY SCHOOLS TRUSTEE AREA 5	663	132	19.9	111
MODESTO IRRIGATION DIST, DIV 2	937	396	42.3	292
TURLOCK IRRIGATION DIST, DIV 2	0	0	0.0	0
MODESTO CITY COUNCIL DISTRICT 2	13,894	3,886	28.0	3025
<b>Vote Center Totals</b>	13,894	294	2.1	216
<b>Vote by Mail Totals</b>	13,894	3,592	25.9	2,809
<b>Grand Totals</b>	13,894	3,886	28.0	3,025

City of Modesto Member, City Council - District 4

Cumulative Totals	Registration	Ballots Cast	Turnout (%)	NICK BAVARO
Precinct				
117001	2,214	755	34.1	569
117002	1,166	640	54.9	454
117007	2,276	1,395	61.3	988
117019	2,975	1,603	53.9	1,134
117020	774	305	39.4	212
117052	1,840	1,034	56.2	767
117053	4,561	1,645	36.1	1,256
117074	3,404	1,813	53.3	1,311
117101	653	330	50.5	225
117187	224	142	63.4	113
117203	0	0	0.0	0
117204	311	144	46.3	101
<b>Vote Center Totals</b>	20,398	618	3.0	422
<b>Vote by Mail Totals</b>	20,398	9,188	45.0	6,708
<b>Grand Totals</b>	20,398	9,806	48.1	7,130

City of Modesto Member, City Council - District 4

Vote Center Totals				
District	Registration	Ballots Cast	Turnout (%)	NICK BAVARO
STANISLAUS COUNTY, CALIFORNIA	20,398	618	3.0	422
5TH CONGRESSIONAL DISTRICT	12,849	441	3.4	301
13TH CONGRESSIONAL DISTRICT	7,549	177	2.3	121
22ND ASSEMBLY DISTRICT	20,398	618	3.0	422
4TH SENATORIAL DISTRICT	20,398	618	3.0	422
STATE BOARD OF EQUALIZATION DISTRICT 1	20,398	618	3.0	422
1ST SUPERVISORIAL DISTRICT	4,368	169	3.9	116
4TH SUPERVISORIAL DISTRICT	16,030	449	2.8	306
5TH SUPERVISORIAL DISTRICT	0	0	0.0	0
Y.C.C.D. TRUSTEE AREA 2	8,189	242	3.0	163
CITY OF MODESTO	20,398	618	3.0	422
COUNTYWIDE	20,398	618	3.0	422
STATEWIDE DISTRICT	20,398	618	3.0	422
MODESTO CITY SCHOOLS	20,398	618	3.0	422
MODESTO CITY SCHOOLS TRUSTEE AREA 5	16,739	510	3.0	348
MODESTO IRRIGATION DIST, DIV 2	5,589	158	2.8	108
MODESTO CITY COUNCIL DISTRICT 4	20,398	618	3.0	422
<b>Vote Center Totals</b>	20,398	618	3.0	422

City of Modesto Member, City Council - District 4

Vote by Mail  
Totals

District	Registration	Ballots Cast	Turnout (%)	NICK BAVARO
STANISLAUS COUNTY, CALIFORNIA	20,398	9,188	45.0	6708
5TH CONGRESSIONAL DISTRICT	12,849	6,660	51.8	4792
13TH CONGRESSIONAL DISTRICT	7,549	2,528	33.5	1916
22ND ASSEMBLY DISTRICT	20,398	9,188	45.0	6708
4TH SENATORIAL DISTRICT	20,398	9,188	45.0	6708
STATE BOARD OF EQUALIZATION DISTRICT 1	20,398	9,188	45.0	6708
1ST SUPERVISORIAL DISTRICT	4,368	2,118	48.5	1521
4TH SUPERVISORIAL DISTRICT	16,030	7,070	44.1	5187
5TH SUPERVISORIAL DISTRICT	0	0	0.0	0
Y.C.C.D. TRUSTEE AREA 2	8,189	3,358	41.0	2517
CITY OF MODESTO	20,398	9,188	45.0	6708
COUNTYWIDE	20,398	9,188	45.0	6708
STATEWIDE DISTRICT	20,398	9,188	45.0	6708
MODESTO CITY SCHOOLS	20,398	9,188	45.0	6708
MODESTO CITY SCHOOLS TRUSTEE AREA 5	16,739	7,292	43.6	5336
MODESTO IRRIGATION DIST, DIV 2	5,589	2,784	49.8	2005
MODESTO CITY COUNCIL DISTRICT 4	20,398	9,188	45.0	6708
<b>Vote by Mail Totals</b>	<b>20,398</b>	<b>9,188</b>	<b>45.0</b>	<b>6,708</b>

City of Modesto Member, City Council - District 4

Grand Totals

District	Registration	Ballots Cast	Turnout (%)	NICK BAVARO
STANISLAUS COUNTY, CALIFORNIA	20,398	9,806	48.1	7130
5TH CONGRESSIONAL DISTRICT	12,849	7,101	55.3	5093
13TH CONGRESSIONAL DISTRICT	7,549	2,705	35.8	2037
22ND ASSEMBLY DISTRICT	20,398	9,806	48.1	7130
4TH SENATORIAL DISTRICT	20,398	9,806	48.1	7130
STATE BOARD OF EQUALIZATION DISTRICT 1	20,398	9,806	48.1	7130
1ST SUPERVISORIAL DISTRICT	4,368	2,287	52.4	1637
4TH SUPERVISORIAL DISTRICT	16,030	7,519	46.9	5493
5TH SUPERVISORIAL DISTRICT	0	0	0.0	0
Y.C.C.D. TRUSTEE AREA 2	8,189	3,600	44.0	2680
CITY OF MODESTO	20,398	9,806	48.1	7130
COUNTYWIDE	20,398	9,806	48.1	7130
STATEWIDE DISTRICT	20,398	9,806	48.1	7130
MODESTO CITY SCHOOLS	20,398	9,806	48.1	7130
MODESTO CITY SCHOOLS TRUSTEE AREA 5	16,739	7,802	46.6	5684
MODESTO IRRIGATION DIST, DIV 2	5,589	2,942	52.6	2113
MODESTO CITY COUNCIL DISTRICT 4	20,398	9,806	48.1	7130
<b>Vote Center Totals</b>	20,398	618	3.0	422
<b>Vote by Mail Totals</b>	20,398	9,188	45.0	6,708
<b>Grand Totals</b>	20,398	9,806	48.1	7,130

City of Modesto Member, City Council - District 5

Precinct	Cumulative Totals			JEREMIAH WILLIAMS	NARAMSEN GORIEL
	Registration	Ballots Cast	Turnout (%)		
117014	1,826	764	41.8	471	222
117040	1,230	651	52.9	418	157
117042	5,895	2,893	49.1	1,743	862
117044	2,257	1,142	50.6	705	293
117047	1,938	1,285	66.3	847	335
117055	4,889	2,568	52.5	1,515	771
117059	918	492	53.6	287	160
117072	1,514	678	44.8	429	184
<b>Vote Center Totals</b>	20,467	697	3.4	473	134
<b>Vote by Mail Totals</b>	20,467	9,776	47.8	5,942	2,850
<b>Grand Totals</b>	20,467	10,473	51.2	6,415	2,984

City of Modesto Member, City Council - District 5

Vote Center Totals	Registration	Ballots Cast	Turnout (%)	JEREMIAH WILLIAMS	NARAMSEN GORIEL
District					
STANISLAUS COUNTY, CALIFORNIA	20,467	697	3.4	473	134
5TH CONGRESSIONAL DISTRICT	20,467	697	3.4	473	134
22ND ASSEMBLY DISTRICT	20,467	697	3.4	473	134
4TH SENATORIAL DISTRICT	20,467	697	3.4	473	134
STATE BOARD OF EQUALIZATION DISTRICT 1	20,467	697	3.4	473	134
1ST SUPERVISORIAL DISTRICT	2,432	134	5.5	82	34
3RD SUPERVISORIAL DISTRICT	5,313	175	3.3	129	20
4TH SUPERVISORIAL DISTRICT	12,722	388	3.0	262	80
CITY OF MODESTO	20,467	697	3.4	473	134
COUNTYWIDE	20,467	697	3.4	473	134
STATEWIDE DISTRICT	20,467	697	3.4	473	134
MODESTO CITY SCHOOLS	20,467	697	3.4	473	134
SYLVAN UNION TRUSTEE AREA 3	3,452	134	3.9	96	20
MODESTO IRRIGATION DIST, DIV 2	7,125	220	3.1	142	49
MODESTO IRRIGATION DIST, DIV 3	11,516	424	3.7	294	79
MODESTO IRRIGATION DIST, DIV 4	1,826	53	2.9	37	6
MODESTO CITY COUNCIL DISTRICT 5	20,467	697	3.4	473	134
<b>Vote Center Totals</b>	20,467	697	3.4	473	134

City of Modesto Member, City Council - District 5

Vote by Mail  
Totals

District	Registration	Ballots Cast	Turnout (%)	JEREMIAH WILLIAMS	NARAMSEN GORIEL
STANISLAUS COUNTY, CALIFORNIA	20,467	9,776	47.8	5942	2850
5TH CONGRESSIONAL DISTRICT	20,467	9,776	47.8	5942	2850
22ND ASSEMBLY DISTRICT	20,467	9,776	47.8	5942	2850
4TH SENATORIAL DISTRICT	20,467	9,776	47.8	5942	2850
STATE BOARD OF EQUALIZATION DISTRICT 1	20,467	9,776	47.8	5942	2850
1ST SUPERVISORIAL DISTRICT	2,432	1,036	42.6	634	310
3RD SUPERVISORIAL DISTRICT	5,313	2,382	44.8	1465	652
4TH SUPERVISORIAL DISTRICT	12,722	6,358	50.0	3843	1888
CITY OF MODESTO	20,467	9,776	47.8	5942	2850
COUNTYWIDE	20,467	9,776	47.8	5942	2850
STATEWIDE DISTRICT	20,467	9,776	47.8	5942	2850
MODESTO CITY SCHOOLS	20,467	9,776	47.8	5942	2850
SYLVAN UNION TRUSTEE AREA 3	3,452	1,829	53.0	1180	499
MODESTO IRRIGATION DIST, DIV 2	7,125	3,324	46.7	2019	970
MODESTO IRRIGATION DIST, DIV 3	11,516	5,741	49.9	3489	1664
MODESTO IRRIGATION DIST, DIV 4	1,826	711	38.9	434	216
MODESTO CITY COUNCIL DISTRICT 5	20,467	9,776	47.8	5942	2850
<b>Vote by Mail Totals</b>	20,467	9,776	47.8	5,942	2,850

City of Modesto Member, City Council - District 5

Grand Totals

District	Registration	Ballots Cast	Turnout (%)	JEREMIAH WILLIAMS	NARAMSEN GORIEL
STANISLAUS COUNTY, CALIFORNIA	20,467	10,473	51.2	6415	2984
5TH CONGRESSIONAL DISTRICT	20,467	10,473	51.2	6415	2984
22ND ASSEMBLY DISTRICT	20,467	10,473	51.2	6415	2984
4TH SENATORIAL DISTRICT	20,467	10,473	51.2	6415	2984
STATE BOARD OF EQUALIZATION DISTRICT 1	20,467	10,473	51.2	6415	2984
1ST SUPERVISORIAL DISTRICT	2,432	1,170	48.1	716	344
3RD SUPERVISORIAL DISTRICT	5,313	2,557	48.1	1594	672
4TH SUPERVISORIAL DISTRICT	12,722	6,746	53.0	4105	1968
CITY OF MODESTO	20,467	10,473	51.2	6415	2984
COUNTYWIDE	20,467	10,473	51.2	6415	2984
STATEWIDE DISTRICT	20,467	10,473	51.2	6415	2984
MODESTO CITY SCHOOLS	20,467	10,473	51.2	6415	2984
SYLVAN UNION TRUSTEE AREA 3	3,452	1,963	56.9	1276	519
MODESTO IRRIGATION DIST, DIV 2	7,125	3,544	49.7	2161	1019
MODESTO IRRIGATION DIST, DIV 3	11,516	6,165	53.5	3783	1743
MODESTO IRRIGATION DIST, DIV 4	1,826	764	41.8	471	222
MODESTO CITY COUNCIL DISTRICT 5	20,467	10,473	51.2	6415	2984
<b>Vote Center Totals</b>	20,467	697	3.4	473	134
<b>Vote by Mail Totals</b>	20,467	9,776	47.8	5,942	2,850
<b>Grand Totals</b>	20,467	10,473	51.2	6,415	2,984

City of Modesto Measure G

Precinct	Cumulative Totals			YES	NO
	Registration	Ballots Cast	Turnout (%)		
117001	2,214	755	34.1	512	203
117002	1,166	640	54.9	379	223
117003	3,126	821	26.3	577	205
117004	3,854	902	23.4	648	219
117005	1,769	459	25.9	336	97
117006	2,732	938	34.3	624	258
117007	2,276	1,395	61.3	953	369
117009	4,793	2,544	53.1	1,800	599
117011	1,845	880	47.7	532	294
117012	3,164	1,021	32.3	698	265
117014	1,826	764	41.8	473	244
117017	4,321	1,959	45.3	1,217	601
117019	2,975	1,603	53.9	1,055	454
117020	774	305	39.4	167	113
117023	650	129	19.8	93	28
117025	924	393	42.5	257	105
117026	18	3	16.7	4	0
117028	4,801	2,078	43.3	1,289	664
117029	3,723	1,824	49.0	1,121	611
117034	4,761	2,522	53.0	1,618	760
117040	1,230	651	52.9	400	201
117042	5,895	2,893	49.1	1,841	863
117044	2,257	1,142	50.6	698	370
117047	1,938	1,285	66.3	832	373
117049	2	0	0.0	0	0
117052	1,840	1,034	56.2	655	332
117053	4,561	1,645	36.1	1,050	495
117055	4,889	2,568	52.5	1,614	782
117059	918	492	53.6	326	141
117069	7,438	3,748	50.4	2,447	1,050
117070	3,359	1,852	55.1	1,185	554
117072	1,514	678	44.8	421	205
117074	3,404	1,813	53.3	1,125	559
117083	1,559	898	57.6	546	293
117087	13	3	23.1	3	0
117088	1,407	816	58.0	507	258
117095	5,519	2,702	49.0	1,672	836
117100	2,753	1,364	49.5	936	375
117101	653	330	50.5	213	85
117106	2,153	1,068	49.6	656	353
117112	5,210	2,581	49.5	1,641	749
117114	0	0	0.0	0	0
117125	710	340	47.9	215	105
117135	805	237	29.4	155	74
117136	1,981	965	48.7	649	253
117170	0	0	0.0	0	0
117187	224	142	63.4	94	44
117188	1	0	0.0	0	0
117196	1	1	100.0	0	1
117203	0	0	0.0	0	0
117204	311	144	46.3	76	58
217101	0	0	0.0	0	0
<b>Vote Center Totals</b>	114,257	3,491	3.1	1,848	1,405
<b>Vote by Mail Totals</b>	114,257	49,836	43.6	32,462	14,316
<b>Grand Totals</b>	114,257	53,327	46.7	34,310	15,721

City of Modesto Measure G

Vote Center Totals					
District	Registration	Ballots Cast	Turnout (%)	YES	NO
STANISLAUS COUNTY, CALIFORNIA	114,257	3,491	3.1	1,848	1,405
5TH CONGRESSIONAL DISTRICT	94,561	3,094	3.3	1,617	1,266
13TH CONGRESSIONAL DISTRICT	19,696	397	2.0	231	139
22ND ASSEMBLY DISTRICT	114,257	3,491	3.1	1,848	1,405
4TH SENATORIAL DISTRICT	114,257	3,491	3.1	1,848	1,405
STATE BOARD OF EQUALIZATION DISTRICT 1	114,257	3,491	3.1	1,848	1,405
1ST SUPERVISORIAL DISTRICT	25,932	930	3.6	482	375
2ND SUPERVISORIAL DISTRICT	1	0	0.0	0	0
3RD SUPERVISORIAL DISTRICT	38,714	1,119	2.9	587	455
4TH SUPERVISORIAL DISTRICT	46,482	1,390	3.0	743	563
5TH SUPERVISORIAL DISTRICT	3,128	52	1.7	36	12
COUNTY BOARD OF EDUCATION TRUSTEE AREA 2	1	0	0.0	0	0
Y.C.C.D. TRUSTEE AREA 2	18,346	577	3.1	289	242
CITY OF MODESTO	114,257	3,491	3.1	1,848	1,405
COUNTYWIDE	114,257	3,491	3.1	1,848	1,405
STATEWIDE DISTRICT	114,257	3,491	3.1	1,848	1,405
CERES UNIFIED TRUSTEE AREA 3	2	0	0.0	0	0
TURLOCK UNIFIED TRUSTEE AREA 6	1	0	0.0	0	0
MODESTO CITY SCHOOLS	114,254	3,491	3.1	1,848	1,405
MODESTO CITY SCHOOLS TRUSTEE AREA 1	12,957	406	3.1	219	158
MODESTO CITY SCHOOLS TRUSTEE AREA 5	18,961	566	3.0	272	254
SYLVAN UNION TRUSTEE AREA 3	8,186	289	3.5	146	121
SYLVAN UNION TRUSTEE AREA 5	9,480	297	3.1	144	128
MODESTO IRRIGATION DIST, DIV 2	29,851	950	3.2	526	363
MODESTO IRRIGATION DIST, DIV 3	25,529	895	3.5	459	375
MODESTO IRRIGATION DIST, DIV 4	19,104	599	3.1	321	237
TURLOCK IRRIGATION DIST, DIV 2	0	0	0.0	0	0
MODESTO CITY COUNCIL DISTRICT 2	13,894	294	2.1	191	86
MODESTO CITY COUNCIL DISTRICT 4	20,398	618	3.0	296	276
MODESTO CITY COUNCIL DISTRICT 5	20,467	697	3.4	357	292
<b>Vote Center Totals</b>	114,257	3,491	3.1	1,848	1,405

City of Modesto Measure G

Vote by Mail Totals

District	Registration	Ballots Cast	Turnout (%)	YES	NO
STANISLAUS COUNTY, CALIFORNIA	114,257	49,836	43.6	32462	14316
5TH CONGRESSIONAL DISTRICT	94,561	44,275	46.8	28683	12836
13TH CONGRESSIONAL DISTRICT	19,696	5,561	28.2	3779	1480
22ND ASSEMBLY DISTRICT	114,257	49,836	43.6	32462	14316
4TH SENATORIAL DISTRICT	114,257	49,836	43.6	32462	14316
STATE BOARD OF EQUALIZATION DISTRICT 1	114,257	49,836	43.6	32462	14316
1ST SUPERVISORIAL DISTRICT	25,932	12,411	47.9	8014	3613
2ND SUPERVISORIAL DISTRICT	1	1	100.0	0	1
3RD SUPERVISORIAL DISTRICT	38,714	15,649	40.4	10098	4568
4TH SUPERVISORIAL DISTRICT	46,482	21,006	45.2	13809	5941
5TH SUPERVISORIAL DISTRICT	3,128	769	24.6	541	193
COUNTY BOARD OF EDUCATION TRUSTEE AREA 2	1	1	100.0	0	1
Y.C.C.D. TRUSTEE AREA 2	18,346	8,283	45.1	5323	2409
CITY OF MODESTO	114,257	49,836	43.6	32462	14316
COUNTYWIDE	114,257	49,836	43.6	32462	14316
STATEWIDE DISTRICT	114,257	49,836	43.6	32462	14316
CERES UNIFIED TRUSTEE AREA 3	2	0	0.0	0	0
TURLOCK UNIFIED TRUSTEE AREA 6	1	1	100.0	0	1
MODESTO CITY SCHOOLS	114,254	49,835	43.6	32462	14315
MODESTO CITY SCHOOLS TRUSTEE AREA 1	12,957	6,044	46.6	3900	1728
MODESTO CITY SCHOOLS TRUSTEE AREA 5	18,961	8,266	43.6	5402	2362
SYLVAN UNION TRUSTEE AREA 3	8,186	4,003	48.9	2692	1085
SYLVAN UNION TRUSTEE AREA 5	9,480	4,508	47.6	2875	1337
MODESTO IRRIGATION DIST, DIV 2	29,851	13,956	46.8	9091	4022
MODESTO IRRIGATION DIST, DIV 3	25,529	12,372	48.5	8058	3532
MODESTO IRRIGATION DIST, DIV 4	19,104	8,574	44.9	5488	2494
TURLOCK IRRIGATION DIST, DIV 2	0	0	0.0	0	0
MODESTO CITY COUNCIL DISTRICT 2	13,894	3,592	25.9	2506	901
MODESTO CITY COUNCIL DISTRICT 4	20,398	9,188	45.0	5983	2659
MODESTO CITY COUNCIL DISTRICT 5	20,467	9,776	47.8	6248	2887
<b>Vote by Mail Totals</b>	114,257	49,836	43.6	32,462	14,316

City of Modesto Measure G

Grand Totals

District	Registration	Ballots Cast	Turnout (%)	YES	NO
STANISLAUS COUNTY, CALIFORNIA	114,257	53,327	46.7	34310	15721
5TH CONGRESSIONAL DISTRICT	94,561	47,369	50.1	30300	14102
13TH CONGRESSIONAL DISTRICT	19,696	5,958	30.2	4010	1619
22ND ASSEMBLY DISTRICT	114,257	53,327	46.7	34310	15721
4TH SENATORIAL DISTRICT	114,257	53,327	46.7	34310	15721
STATE BOARD OF EQUALIZATION DISTRICT 1	114,257	53,327	46.7	34310	15721
1ST SUPERVISORIAL DISTRICT	25,932	13,341	51.4	8496	3988
2ND SUPERVISORIAL DISTRICT	1	1	100.0	0	1
3RD SUPERVISORIAL DISTRICT	38,714	16,768	43.3	10685	5023
4TH SUPERVISORIAL DISTRICT	46,482	22,396	48.2	14552	6504
5TH SUPERVISORIAL DISTRICT	3,128	821	26.2	577	205
COUNTY BOARD OF EDUCATION TRUSTEE AREA 2	1	1	100.0	0	1
Y.C.C.D. TRUSTEE AREA 2	18,346	8,860	48.3	5612	2651
CITY OF MODESTO	114,257	53,327	46.7	34310	15721
COUNTYWIDE	114,257	53,327	46.7	34310	15721
STATEWIDE DISTRICT	114,257	53,327	46.7	34310	15721
CERES UNIFIED TRUSTEE AREA 3	2	0	0.0	0	0
TURLOCK UNIFIED TRUSTEE AREA 6	1	1	100.0	0	1
MODESTO CITY SCHOOLS	114,254	53,326	46.7	34310	15720
MODESTO CITY SCHOOLS TRUSTEE AREA 1	12,957	6,450	49.8	4119	1886
MODESTO CITY SCHOOLS TRUSTEE AREA 5	18,961	8,832	46.6	5674	2616
SYLVAN UNION TRUSTEE AREA 3	8,186	4,292	52.4	2838	1206
SYLVAN UNION TRUSTEE AREA 5	9,480	4,805	50.7	3019	1465
MODESTO IRRIGATION DIST, DIV 2	29,851	14,906	49.9	9617	4385
MODESTO IRRIGATION DIST, DIV 3	25,529	13,267	52.0	8517	3907
MODESTO IRRIGATION DIST, DIV 4	19,104	9,173	48.0	5809	2731
TURLOCK IRRIGATION DIST, DIV 2	0	0	0.0	0	0
MODESTO CITY COUNCIL DISTRICT 2	13,894	3,886	28.0	2697	987
MODESTO CITY COUNCIL DISTRICT 4	20,398	9,806	48.1	6279	2935
MODESTO CITY COUNCIL DISTRICT 5	20,467	10,473	51.2	6605	3179
<b>Vote Center Totals</b>	114,257	3,491	3.1	1,848	1,405
<b>Vote by Mail Totals</b>	114,257	49,836	43.6	32,462	14,316
<b>Grand Totals</b>	114,257	53,327	46.7	34,310	15,721

**City of Modesto Measure H**

Precinct	Cumulative Totals			YES	NO
	Registration	Ballots Cast	Turnout (%)		
117001	2,214	755	34.1	491	225
117002	1,166	640	54.9	329	282
117003	3,126	821	26.3	584	204
117004	3,854	902	23.4	642	231
117005	1,769	459	25.9	315	120
117006	2,732	938	34.3	634	243
117007	2,276	1,395	61.3	813	531
117009	4,793	2,544	53.1	1,590	851
117011	1,845	880	47.7	499	343
117012	3,164	1,021	32.3	675	315
117014	1,826	764	41.8	470	262
117017	4,321	1,959	45.3	1,165	694
117019	2,975	1,603	53.9	965	562
117020	774	305	39.4	169	116
117023	650	129	19.8	87	36
117025	924	393	42.5	267	105
117026	18	3	16.7	3	1
117028	4,801	2,078	43.3	1,227	749
117029	3,723	1,824	49.0	1,067	706
117034	4,761	2,522	53.0	1,559	859
117040	1,230	651	52.9	369	241
117042	5,895	2,893	49.1	1,732	1,034
117044	2,257	1,142	50.6	678	407
117047	1,938	1,285	66.3	698	539
117049	2	0	0.0	0	0
117052	1,840	1,034	56.2	590	405
117053	4,561	1,645	36.1	1,040	528
117055	4,889	2,568	52.5	1,532	909
117059	918	492	53.6	296	180
117069	7,438	3,748	50.4	2,234	1,342
117070	3,359	1,852	55.1	1,110	666
117072	1,514	678	44.8	416	224
117074	3,404	1,813	53.3	1,025	711
117083	1,559	898	57.6	519	336
117087	13	3	23.1	2	1
117088	1,407	816	58.0	468	321
117095	5,519	2,702	49.0	1,587	972
117100	2,753	1,364	49.5	804	508
117101	653	330	50.5	173	126
117106	2,153	1,068	49.6	611	412
117112	5,210	2,581	49.5	1,479	960
117114	0	0	0.0	0	0
117125	710	340	47.9	210	118
117135	805	237	29.4	170	62
117136	1,981	965	48.7	579	339
117170	0	0	0.0	0	0
117187	224	142	63.4	81	58
117188	1	0	0.0	0	0
117196	1	1	100.0	0	1
117203	0	0	0.0	0	0
117204	311	144	46.3	77	62
217101	0	0	0.0	0	0
<b>Vote Center Totals</b>	114,257	3,491	3.1	1,957	1,368
<b>Vote by Mail Totals</b>	114,257	49,836	43.6	30,074	17,529
<b>Grand Totals</b>	114,257	53,327	46.7	32,031	18,897

**City of Modesto Measure H**

Vote Center Totals	Registration	Ballots Cast	Turnout (%)	YES	NO
District					
STANISLAUS COUNTY, CALIFORNIA	114,257	3,491	3.1	1,957	1,368
5TH CONGRESSIONAL DISTRICT	94,561	3,094	3.3	1,690	1,267
13TH CONGRESSIONAL DISTRICT	19,696	397	2.0	267	101
22ND ASSEMBLY DISTRICT	114,257	3,491	3.1	1,957	1,368
4TH SENATORIAL DISTRICT	114,257	3,491	3.1	1,957	1,368
STATE BOARD OF EQUALIZATION DISTRICT 1	114,257	3,491	3.1	1,957	1,368
1ST SUPERVISORIAL DISTRICT	25,932	930	3.6	481	401
2ND SUPERVISORIAL DISTRICT	1	0	0.0	0	0
3RD SUPERVISORIAL DISTRICT	38,714	1,119	2.9	636	430
4TH SUPERVISORIAL DISTRICT	46,482	1,390	3.0	804	526
5TH SUPERVISORIAL DISTRICT	3,128	52	1.7	36	11
COUNTY BOARD OF EDUCATION TRUSTEE AREA 2	1	0	0.0	0	0
Y.C.C.D. TRUSTEE AREA 2	18,346	577	3.1	301	239
CITY OF MODESTO	114,257	3,491	3.1	1,957	1,368
COUNTYWIDE	114,257	3,491	3.1	1,957	1,368
STATEWIDE DISTRICT	114,257	3,491	3.1	1,957	1,368
CERES UNIFIED TRUSTEE AREA 3	2	0	0.0	0	0
TURLOCK UNIFIED TRUSTEE AREA 6	1	0	0.0	0	0
MODESTO CITY SCHOOLS	114,254	3,491	3.1	1,957	1,368
MODESTO CITY SCHOOLS TRUSTEE AREA 1	12,957	406	3.1	219	165
MODESTO CITY SCHOOLS TRUSTEE AREA 5	18,961	566	3.0	300	233
SYLVAN UNION TRUSTEE AREA 3	8,186	289	3.5	147	131
SYLVAN UNION TRUSTEE AREA 5	9,480	297	3.1	146	132
MODESTO IRRIGATION DIST, DIV 2	29,851	950	3.2	551	357
MODESTO IRRIGATION DIST, DIV 3	25,529	895	3.5	476	386
MODESTO IRRIGATION DIST, DIV 4	19,104	599	3.1	331	240
TURLOCK IRRIGATION DIST, DIV 2	0	0	0.0	0	0
MODESTO CITY COUNCIL DISTRICT 2	13,894	294	2.1	209	67
MODESTO CITY COUNCIL DISTRICT 4	20,398	618	3.0	330	249
MODESTO CITY COUNCIL DISTRICT 5	20,467	697	3.4	391	281
<b>Vote Center Totals</b>	114,257	3,491	3.1	1,957	1,368

**City of Modesto Measure H**

**Vote by Mail Totals**

District	Registration	Ballots Cast	Turnout (%)	YES	NO
STANISLAUS COUNTY, CALIFORNIA	114,257	49,836	43.6	30074	17529
5TH CONGRESSIONAL DISTRICT	94,561	44,275	46.8	26377	15925
13TH CONGRESSIONAL DISTRICT	19,696	5,561	28.2	3697	1604
22ND ASSEMBLY DISTRICT	114,257	49,836	43.6	30074	17529
4TH SENATORIAL DISTRICT	114,257	49,836	43.6	30074	17529
STATE BOARD OF EQUALIZATION DISTRICT 1	114,257	49,836	43.6	30074	17529
1ST SUPERVISORIAL DISTRICT	25,932	12,411	47.9	7286	4562
2ND SUPERVISORIAL DISTRICT	1	1	100.0	0	1
3RD SUPERVISORIAL DISTRICT	38,714	15,649	40.4	9554	5388
4TH SUPERVISORIAL DISTRICT	46,482	21,006	45.2	12686	7385
5TH SUPERVISORIAL DISTRICT	3,128	769	24.6	548	193
COUNTY BOARD OF EDUCATION TRUSTEE AREA 2	1	1	100.0	0	1
Y.C.C.D. TRUSTEE AREA 2	18,346	8,283	45.1	4890	3014
CITY OF MODESTO	114,257	49,836	43.6	30074	17529
COUNTYWIDE	114,257	49,836	43.6	30074	17529
STATEWIDE DISTRICT	114,257	49,836	43.6	30074	17529
CERES UNIFIED TRUSTEE AREA 3	2	0	0.0	0	0
TURLOCK UNIFIED TRUSTEE AREA 6	1	1	100.0	0	1
MODESTO CITY SCHOOLS	114,254	49,835	43.6	30074	17528
MODESTO CITY SCHOOLS TRUSTEE AREA 1	12,957	6,044	46.6	3602	2149
MODESTO CITY SCHOOLS TRUSTEE AREA 5	18,961	8,266	43.6	4969	2933
SYLVAN UNION TRUSTEE AREA 3	8,186	4,003	48.9	2350	1479
SYLVAN UNION TRUSTEE AREA 5	9,480	4,508	47.6	2622	1679
MODESTO IRRIGATION DIST, DIV 2	29,851	13,956	46.8	8418	4909
MODESTO IRRIGATION DIST, DIV 3	25,529	12,372	48.5	7326	4464
MODESTO IRRIGATION DIST, DIV 4	19,104	8,574	44.9	5125	3030
TURLOCK IRRIGATION DIST, DIV 2	0	0	0.0	0	0
MODESTO CITY COUNCIL DISTRICT 2	13,894	3,592	25.9	2495	937
MODESTO CITY COUNCIL DISTRICT 4	20,398	9,188	45.0	5423	3357
MODESTO CITY COUNCIL DISTRICT 5	20,467	9,776	47.8	5800	3515
<b>Vote by Mail Totals</b>	114,257	49,836	43.6	30,074	17,529

**City of Modesto Measure H**

Grand Totals					
District	Registration	Ballots Cast	Turnout (%)	YES	NO
STANISLAUS COUNTY, CALIFORNIA	114,257	53,327	46.7	32031	18897
5TH CONGRESSIONAL DISTRICT	94,561	47,369	50.1	28067	17192
13TH CONGRESSIONAL DISTRICT	19,696	5,958	30.2	3964	1705
22ND ASSEMBLY DISTRICT	114,257	53,327	46.7	32031	18897
4TH SENATORIAL DISTRICT	114,257	53,327	46.7	32031	18897
STATE BOARD OF EQUALIZATION DISTRICT 1	114,257	53,327	46.7	32031	18897
1ST SUPERVISORIAL DISTRICT	25,932	13,341	51.4	7767	4963
2ND SUPERVISORIAL DISTRICT	1	1	100.0	0	1
3RD SUPERVISORIAL DISTRICT	38,714	16,768	43.3	10190	5818
4TH SUPERVISORIAL DISTRICT	46,482	22,396	48.2	13490	7911
5TH SUPERVISORIAL DISTRICT	3,128	821	26.2	584	204
COUNTY BOARD OF EDUCATION TRUSTEE AREA 2	1	1	100.0	0	1
Y.C.C.D. TRUSTEE AREA 2	18,346	8,860	48.3	5191	3253
CITY OF MODESTO	114,257	53,327	46.7	32031	18897
COUNTYWIDE	114,257	53,327	46.7	32031	18897
STATEWIDE DISTRICT	114,257	53,327	46.7	32031	18897
CERES UNIFIED TRUSTEE AREA 3	2	0	0.0	0	0
TURLOCK UNIFIED TRUSTEE AREA 6	1	1	100.0	0	1
MODESTO CITY SCHOOLS	114,254	53,326	46.7	32031	18896
MODESTO CITY SCHOOLS TRUSTEE AREA 1	12,957	6,450	49.8	3821	2314
MODESTO CITY SCHOOLS TRUSTEE AREA 5	18,961	8,832	46.6	5269	3166
SYLVAN UNION TRUSTEE AREA 3	8,186	4,292	52.4	2497	1610
SYLVAN UNION TRUSTEE AREA 5	9,480	4,805	50.7	2768	1811
MODESTO IRRIGATION DIST, DIV 2	29,851	14,906	49.9	8969	5266
MODESTO IRRIGATION DIST, DIV 3	25,529	13,267	52.0	7802	4850
MODESTO IRRIGATION DIST, DIV 4	19,104	9,173	48.0	5456	3270
TURLOCK IRRIGATION DIST, DIV 2	0	0	0.0	0	0
MODESTO CITY COUNCIL DISTRICT 2	13,894	3,886	28.0	2704	1004
MODESTO CITY COUNCIL DISTRICT 4	20,398	9,806	48.1	5753	3606
MODESTO CITY COUNCIL DISTRICT 5	20,467	10,473	51.2	6191	3796
<b>Vote Center Totals</b>	114,257	3,491	3.1	1,957	1,368
<b>Vote by Mail Totals</b>	114,257	49,836	43.6	30,074	17,529
<b>Grand Totals</b>	114,257	53,327	46.7	32,031	18,897

City of Modesto Member, City Council - District 2

Write-in Tally

Precinct	Registration	Ballots Cast	Turnout (%)	Sebastian Jones
117003	3,126	821	26.3	8
117004	3,854	902	23.4	22
117005	1,769	459	25.9	9
117006	2,732	938	34.3	84
117023	650	129	19.8	0
117025	924	393	42.5	2
117026	18	3	16.7	0
117049	2	0	0.0	0
117087	13	3	23.1	0
117114	0	0	0.0	0
117135	805	237	29.4	16
117170	0	0	0.0	0
117196	1	1	100.0	0
<b>Vote Center Totals</b>	13,894	294	2.1	8
<b>Vote by Mail Totals</b>	13,894	3,592	25.9	133
<b>Grand Totals</b>	13,894	3,886	28.0	141

MODESTO CITY COUNCIL  
RESOLUTION NO. 2022-454

RESOLUTION APPROVING THE 2023 CITY CALENDARS OF REGULARLY SCHEDULED CITY COUNCIL AND COUNCIL STANDING COMMITTEE MEETINGS

BE IT HEREBY RESOLVED by the Council of the City of Modesto that the 2023 City Council Meeting Calendar, **attached** hereto as **Exhibit "A,"** and the 2023 Council Standing Committee Meeting Calendar **Exhibit "B,"** are hereby approved.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 6th day of December, 2022, by Vice Mayor Wright, who moved its adoption, which motion being duly seconded by Councilmember Williams, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Alvarez, Bavaro, Escutia-Braaton, Ricci, Williams, Wright, Mayor Zwahlen

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST:

  
DIANE NAYARES-PEREZ, CMC,  
City Clerk

(SEAL)

APPROVED AS TO FORM:

BY:

  
JOSE M. SANCHEZ, City Attorney

# City Council Calendar 2023

## January 2023

3<sup>rd</sup> NO MEETING  
10<sup>th</sup> Council Meeting  
17<sup>th</sup> NO MEETING  
24<sup>th</sup> Council Meeting  
31<sup>st</sup> NO MEETING

## February 2023

7<sup>th</sup> NO MEETING  
14<sup>th</sup> Council Meeting  
21<sup>st</sup> NO MEETING  
28<sup>th</sup> Council Meeting

## March 2023

7<sup>th</sup> Council Meeting  
14<sup>th</sup> Council Meeting  
21<sup>st</sup> NO MEETING  
28<sup>th</sup> NO MEETING

## April 2023

4<sup>th</sup> Council Meeting  
11<sup>th</sup> Council Meeting  
18<sup>th</sup> NO MEETING  
25<sup>th</sup> NO MEETING

## May 2023

2<sup>nd</sup> Council Meeting  
9<sup>th</sup> Council Meeting  
16<sup>th</sup> NO MEETING  
23<sup>rd</sup> Council Meeting  
30<sup>th</sup> NO MEETING

## June 2023

6<sup>th</sup> Council Meeting  
13<sup>th</sup> Council Meeting  
20<sup>th</sup> NO MEETING  
27<sup>th</sup> Council Meeting

## July 2023

4<sup>th</sup> NO MEETING  
11<sup>th</sup> Council Meeting  
18<sup>th</sup> NO MEETING  
25<sup>th</sup> NO MEETING

## August 2023

1<sup>st</sup> NO MEETING  
8<sup>th</sup> Council Meeting  
15<sup>th</sup> NO MEETING  
22<sup>nd</sup> Council Meeting  
29<sup>th</sup> NO MEETING

## September 2023

5<sup>th</sup> NO MEETING  
12<sup>th</sup> Council Meeting  
19<sup>th</sup> NO MEETING  
26<sup>th</sup> Council Meeting

## October 2023

3<sup>rd</sup> NO MEETING  
10<sup>th</sup> Council Meeting  
17<sup>th</sup> NO MEETING  
24<sup>th</sup> Council Meeting  
31<sup>st</sup> NO MEETING

## November 2023

7<sup>th</sup> Council Meeting  
14<sup>th</sup> Council Meeting  
21<sup>st</sup> NO MEETING  
28<sup>th</sup> NO MEETING

## December 2023

5<sup>th</sup> Council Meeting  
12<sup>th</sup> Council Meeting  
19<sup>th</sup> NO MEETING  
26<sup>th</sup> NO MEETING

City of Modesto Council and Standing Committees Calendar

2023

JANUARY						
S	M	T	W	T	F	S
1	H	3	4	5	6	7
8	9	10	11	12	13	14
15	H	17	18	19	20	21
22	23	24	25	26	27	28
29	30	31				

FEBRUARY						
S	M	T	W	T	F	S
			1	2	3	4
5	6	7	8	9	10	11
12	13	14	15	16	17	18
19	H	21	22	23	24	25
26	27	28				

MARCH						
S	M	T	W	T	F	S
			1	2	3	4
5	6	7	8	9	10	11
12	13	14	15	16	17	18
19	20	21	22	23	24	25
26	27	28	29	30	31	

APRIL						
S	M	T	W	T	F	S
						1
2	3	4	5	6	7	8
9	10	11	12	13	14	15
16	17	18	19	20	21	22
23	24	25	26	27	28	29
30						

MAY						
S	M	T	W	T	F	S
	1	2	3	4	5	6
7	8	9	10	11	12	13
14	15	16	17	18	19	20
21	22	23	24	25	26	27
28	H	30	31			

JUNE						
S	M	T	W	T	F	S
				1	2	3
4	5	6	7	8	9	10
11	12	13	14	15	16	17
18	19	20	21	22	23	24
25	26	27	28	29	30	

JULY						
S	M	T	W	T	F	S
						1
2	3	H	5	6	7	8
9	10	11	12	13	14	15
16	17	18	19	20	21	22
23	24	25	26	27	28	29
30	31					

AUGUST						
S	M	T	W	T	F	S
		1	2	3	4	5
6	7	8	9	10	11	12
13	14	15	16	17	18	19
20	21	22	23	24	25	26
27	28	29	30	31		

SEPTEMBER						
S	M	T	W	T	F	S
					1	2
3	H	5	6	7	8	9
10	11	12	13	14	15	16
17	18	19	20	21	22	23
24	25	26	27	28	29	30

OCTOBER						
S	M	T	W	T	F	S
1	2	3	4	5	6	7
8	9	10	11	12	13	14
15	16	17	18	19	20	21
22	23	24	25	26	27	28
29	30	31				

NOVEMBER						
S	M	T	W	T	F	S
			1	2	3	4
5	6	7	8	9	H	11
12	13	14	15	16	17	18
19	20	21	22	H	H	25
26	27	28	29	30		

DECEMBER						
S	M	T	W	T	F	S
					1	2
3	4	5	6	7	8	9
10	11	12	13	14	15	16
17	18	19	20	21	22	23
24	H	26	27	28	29	30
31						

- Council 5:30 PM
- Economic Development Committee 4:00 PM
- Finance Committee 4:00 PM
- Safety & Communities Committee 4:00 PM
- Appointment & Audit Committees - **As needed**
- Cannabis Permit Review - **As needed**

\*Meeting dates and times are subject to change at the request of Council  
 Calendar by the City Clerk's Office 12/06/2022

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2022-455**

**RESOLUTION CONTINUING TO AUTHORIZE REMOTE  
TELECONFERENCE MEETINGS OF THE CITY OF MODESTO PURSUANT  
TO ASSEMBLY BILL 361**

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

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

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

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

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

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

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

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

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

WHEREAS, on September 28, 2021, the City Council adopted Resolution No. 2021-370 authorizing remote teleconference meetings pursuant to AB361 (Government Code section 54953(e)); and

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

WHEREAS, the City Council has considered the circumstances of the Governor’s state of emergency proclamation pursuant to Government Code section 8625, which remains active; and

WHEREAS, on March 8, 2022, the County of Stanislaus Board of Supervisors terminated the Declaration of a Local Health Emergency that was issued on March 11, 2020; and

WHEREAS, State of California health officials recommend masks to be worn when individuals might be around unvaccinated people, especially while indoors; and

WHEREAS, the City Council, acting for itself and for the benefit of all of the City's commissions, committees, and other bodies (collectively referred to as the "Legislative Bodies"), does hereby find that the Legislative Bodies shall continue to conduct their meetings without compliance with Government Code section 54953(b)(3), as authorized by Government Code section 54953(e), and that the Legislative Bodies shall continue to comply with the requirements to provide the public with access to the meetings as prescribed in Government Code section 54953(e)(2) as a consequence of the ongoing state of emergency and the continued social distancing measures required by local officials.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF MODESTO DOES HEREBY RESOLVE AS FOLLOWS:

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

Section 2. Consideration of State of Emergency. The City Council has considered the conditions of the state of emergency declared pursuant to Government Code section 8625, and determined that such emergency conditions continue to be present in the City.

Section 3. Continued Social Distancing Measures by State and Local Officials.

The City Council finds that the State of California Health Officer's recommended measures to promote social distancing remain in effect.

Section 4. Remote Teleconference Meetings. The City Council finds that the conditions continue to exist pursuant to Government Code section 54953(e)(3) to allow Legislative Bodies to use teleconferencing to hold public meetings in accordance with Government Code section 54953(e)(2) to ensure members of the public have continued access to safely observe and participate in local government meetings.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 6th day of December, 2022, by Vice Mayor Wright, who moved its adoption, which motion being duly seconded by Councilmember Williams, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Alvarez, Bavaro, Escutia-Braaton, Ricci, Williams, Wright, Mayor Zwahlen  
NOES: Councilmembers: None  
ABSENT: Councilmembers: None

ATTEST:

  
DIANE NAYARES-PEREZ, CMC,  
City Clerk

(SEAL)

APPROVED AS TO FORM:

BY:

  
JOSE M. SANCHEZ, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2022-456**

**RESOLUTION AMENDING THE FISCAL YEAR 2022-23 ANNUAL  
OPERATING AND CAPITAL IMPROVEMENT FUND BUDGETS AND  
AUTHORIZING THE CITY MANAGER, TO TAKE THE NECESSARY STEPS  
TO IMPLEMENT THE PROVISIONS OF THIS RESOLUTION**

WHEREAS, a financial analysis has been completed and it has been determined that a budget adjustment is required to the Annual and Capital Improvement Budgets of the City of Modesto for Fiscal Year 2022-23.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves amending the Fiscal Year 2022-23 Annual Operating and Capital Improvement budget as shown in **Exhibit A**, which is **attached** hereto and incorporated by reference herein.

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 6th day of December, 2022, by Vice Mayor Wright, who moved its adoption, which motion being duly seconded by Councilmember Williams, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Alvarez, Bavaro, Escutia-Braaton, Ricci, Williams, Wright, Mayor Zwahlen

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST:

  
DIANE NAYARÉS-PÉREZ, CMC,  
City Clerk

(SEAL)

APPROVED AS TO FORM:

BY:

  
JOSE M. SANCHEZ, City Attorney

## EXHIBIT A

### FISCAL YEAR 2022-23

#### **COMMUNITY AND ECONOMIC DEVELOPMENT**

- A budget adjustment in the amount of \$117,018 necessary in the Streets Capital Facility Fee Fund 3410 for Project 100586 – 7<sup>th</sup> Street Bridge Tuolumne. The adjustment is recognizing the additional revenue received from Stanislaus County through reimbursement on the project and allocating those funds to the project discretionary expenditure accounts.
- A budget adjustment is needed to recognize revenue and amend the discretionary expense budget in the Agricultural Mitigation Fund 1810 in the amount of \$200,000. The funds will be received as part of the agricultural mitigation fee that developers will pay. The revenue will be used to pay for administering an agricultural mitigation program utilizing land owned by the City at the Jennings Road treatment plant, including start-up costs, on-going monitoring, legal costs, and potential agreements with outside parties for on-going administration.
- A budget adjustment in the amount of \$355,050 is necessary in the Grants - Police Modesto Police Department (MPD) Department of Housing and Urban Development (HUD) Emergency Shelter Grants (ESG) Homeless Outreach to budget a transfer in from Fund 1180 - Emergency Shelter Grants (ESG) from Project 101410 and Project 101258. The funding will be used to support the Community Health and Assistance Team (CHAT) during FY23.
- A budget adjustment is necessary to reduce the budgeted revenues for Community Development Block Grant (CDBG) Direct Program - Fund 1130 by \$1,304,922 and budgeted expenses for Emergency Shelter Grant (ESG) - Fund 1180 by \$55,690. These revenues and expenses were over-budgeted during the FY 2022-23 budget process, and were not included with the budget reductions section of the Budget Addendum. There is no impact to the General Fund, and there is no impact the services provided by the grant funding during this fiscal year.

#### **PARKS, RECREATION AND NEIGHBORHOODS**

- A budget adjustment in the amount of \$2,968,885 is necessary in the JPA – Tuolumne River Regional Park (TRRP) Special Revenue Fund 6710 for Project 101164 – TRRP Riverwalk Gateway to Neece Drive. The project was awarded grant funds from the State of California Natural Resources Agency. The grant was approved to be applied and accepted per resolution 2020-253, however, the resolution did not include a budget adjustment to the project. As a result, the project's revenue and expense budget is being increased. The project is also funded with local Parks Capital Facility Fee funds.
- A budget adjustment in the amount of \$507,624 is necessary to establish a transfer from the Air Quality Capital Facility Fee Fund to the newly established Parks and Air Quality Capital Facility Fee Fund 3432 as Fund 3430 is no longer being used for Fiscal Year 2022-2023.

- A budget adjustment in the amount of \$4,474,279 is necessary to establish a transfer from the Parks Capital Facility Fee Fund to the newly established Parks and Air Quality Capital Facility Fee Fund 3432 as Fund 3460 is no longer being used for Fiscal Year 2022-2023. In addition, the outstanding projects that have transfers from Fund 3460 are being reduced and re-established to come from Fund 3432. The project and amount for the outstanding transfer are listed in the table below:

<b>Project Number</b>	<b>Project Name</b>	<b>Amount for Adjustment</b>
101135	TRRP River Pavilion	\$11,723
101230	TRRP Masterplan Update 2020	\$150,000
101231	Virginia Corridor Phase 8	\$450,000
101232	TRRP Riverwalk Gateway-Legion	\$122,888
101233	Dry Creek to TRRP Trail	\$382,643
101379	TRRP Gateway Phase 3	\$150,000
<b>Total Change in Transfer from 3460 to 3432</b>		<b>\$1,267,254</b>

**POLICE DEPARTMENT**

- A budget adjustment in the amount of \$440,000 is needed in the Police Grants Fund (1342) for Project 101441 – 2023 Office of Traffic Safety (OTS) Selective Traffic Enforcement Program (STEP) Grant. The adjustment will recognize grant revenue and establish the discretionary expenditure accounts, The Modesto Police Department was awarded the grant per Grant #PT23045 and the budget appropriation is in place to expend the funds for eligible grant program categories per the grant agreement.

**PUBLIC WORKS**

- A budget adjustment in the amount of \$2,006,514 is needed in the Capital Grants - CIP Projects Fund (3140) for Project 101445 - Stanislaus Regional Transit Authority New Bus Purchases. This project utilizes a Federal Transit Administration Grant, CA-2021-003-00, that was retained by the City after the Transit division broke off to form the Stanislaus Regional Transit Authority (StanRTA). Under Resolution 2021-360, City Council approved the Amendment to Grant Management Services with StanRTA that allows the City to pass through these grant funds for eligible expenses incurred by StanRTA and this adjustment will ensure the budget appropriation is in place to expend the funds.

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2022-457**

**RESOLUTION APPROVING A THIRD AMENDMENT TO THE JOINT EXERCISE OF POWERS AGREEMENT WITH THE COUNTY OF STANISLAUS FOR EMERGENCY DISPATCH SERVICES AMENDING SECTIONS 8.1.3, 8.1.4 AND 8.3.3 CONCERNING MEMBERSHIP AND ALTERNATE MEMBERS APPOINTED TO SERVE AS STAFF MEMBER COMMISSIONERS ON THE CONSOLIDATED EMERGENCY DISPATCH AGENCY COMMISSION AND AUTHORIZING THE CITY MANAGER OR HIS DESIGNEE TO EXECUTE THE AMENDMENT, AND APPOINTING THE DEPUTY CITY MANAGER OF OPERATIONS AS THE CITY OF MODESTO STAFF MEMBER COMMISSIONER, AND THE DEPUTY CITY MANAGER OF SUPPORT AS THEIR ALTERNATE, TO THE CONSOLIDATED EMERGENCY DISPATCH AGENCY COMMISSION**

WHEREAS, the City of Modesto (“City”) and the County of Stanislaus (“County”) entered into a Joint Exercise of Powers Agreement (“JPA Agreement”) for Emergency Dispatch Services beginning September 1, 1999, and

WHEREAS, the agency is governed by a seven (7) member Consolidated Emergency Dispatch Agency Commission (“Commission”). The membership is outlined in Section 8.1 of the JPA Agreement, and

WHEREAS, the Consolidated Emergency Dispatch Agency is also known as Stanislaus Regional 9-1-1 (“SR911”), provides primary law and fire dispatch services and is designated as the Public Safety Answering Point (“PSAP”) for the partner agencies, and

WHEREAS, the Commission is bound by the Ralph M. Brown Act, which prohibits a majority of its members to meet on items related to dispatch services without proper notice of a public meeting, and

WHEREAS, as the City continues to explore alternatives to our existing model for the delivery of dispatch services, it is imperative that appropriate leadership from the

City and County are able to work at the staff level to meet with key public safety leaders and form recommendations for future policy consideration by the Modesto City Council and Stanislaus County Board of Supervisors, and

WHEREAS, it is recommended to approve a third amendment to the JPA Agreement between the City and the County to amend portions of Section 8, which outlines Commission membership and appointment to allow appointment of the most appropriate agency officials to serve on the Commission, and

WHEREAS, it is recommended to amend the JPA Agreement, updating Sections 8.1.3, 8.1.4, and 8.3.3 as follows:

“8.1.3 One (1) staff member of the County of Stanislaus. The Board of Supervisors shall also select one (1) alternate, to serve in his or her absence. The staff member or his or her alternate under this Section shall not be the Stanislaus County Sheriff or the County Fire Warden. The County Chief Executive Officer.”

“8.1.4 One (1) staff member of the City of Modesto. The City Council shall also select one (1) alternate, to serve in his or her absence. The staff member or his or her alternate under this Section shall not be the Modesto Police Chief or Modesto Fire Chief. The Modesto City Manager.”

“8.3.3 The Commissioners appointed under Sections 8.1.3, 8.1.4, and 8.1.5, and their alternates, shall serve at the pleasure of their appointing body.”,  
and

WHEREAS, the members and their alternates will serve at the pleasure of the appointing bodies, and

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves a Third Amendment to the Joint Exercise of Powers Agreement with the County of Stanislaus for Emergency Dispatch Services, amending sections 8.1.3, 8.1.4 and 8.3.3 concerning membership and alternate members appointed to serve as Staff Member Commissioners on the Consolidated Emergency Dispatch Agency Commission, and

BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to execute the amendment, in a form approved by the City Attorney, and

BE IT FURTHER RESOLVED that the Deputy City Manager of Operations is hereby appointed to serve as the City of Modesto Staff Member Commissioner, and Deputy City Manager of Support as their Alternate, to the Consolidated Emergency Dispatch Agency Commission pursuant to the Third Amendment to the Joint Exercise of Powers Agreement between the City of Modesto and the County of Stanislaus for Emergency Dispatch Services.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 6th day of December, 2022, by Vice Mayor Wright, who moved its adoption, which motion being duly seconded by Councilmember Williams, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Alvarez, Bavaro, Escutia-Braaton, Ricci, Williams, Wright, Mayor Zwahlen

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST:   
DIANE NAYARES-PEREZ, CMC,  
City Clerk

(SEAL)

APPROVED AS TO FORM:

BY:   
JOSE M. SANCHEZ, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2022-458**

**RESOLUTION APPROVING THE AWARD OF BID AND PURCHASING AGREEMENTS FOR CONCRETE BOXES, COVERS, VALVES, HYDRANTS AND FITTINGS TO FERGUSON WATERWORKS, MODESTO, CA, ICONIX WATERWORKS, MCCLELLAN, CA, AND AMERICAN AVK, MINDEN, NV FOR A ONE-YEAR AGREEMENT WITH FOUR ONE-YEAR EXTENSION OPTIONS, FOR A TOTAL ESTIMATED ANNUAL AMOUNT NOT TO EXCEED \$765,000, AND A TOTAL AMOUNT NOT TO EXCEED \$3,825,000 OVER FIVE YEARS, AND AUTHORIZING THE DIRECTOR OF FINANCE, OR HER DESIGNEE TO EXECUTE THE PURCHASING AGREEMENTS**

WHEREAS, the City Manager authorized the Purchasing Manager to issue formal Request for Bids (RFB) for purchase of concrete boxes, covers, valves, hydrants and fittings, and

WHEREAS, on July 20, 2022, the Purchasing Division issued RFB No. 2122-48 for the purchase of concrete boxes, covers, valves, hydrants and fittings on the City's website, and

WHEREAS, (18) eighteen prospective bidders chose to download the RFB document, and

WHEREAS, on August 30, 2022, bids were formally opened in the City Clerk's Office, and

WHEREAS, four companies chose to respond, with all bidders providing responsive and responsible bids, one of which is a local vendor, and

WHEREAS, due to market volatility, thirty-eight (38) items were bid as ninety (90) day pricing, and

WHEREAS, staff will obtain pricing for these items as needed, within each ninety (90) day period, ensuring the City orders from the lowest vendor, and

WHEREAS, based on providing lowest responsive and responsible bids, City staff recommends the award of bids for the purchase of concrete boxes, covers, valves, hydrants and fittings to Ferguson Waterworks, Modesto, CA, Iconix Waterworks, McClellan, CA, and to American AVK, Minden, NV for a (1) one-year purchasing agreement with (4) four (1) one-year extension options, for an annual cost not to exceed \$765,000 and an amount not to exceed \$3,825,000 over five years, and

WHEREAS, as shown in the attached cost abstract, the highlighted portions indicate the low bidders. In addition, local vendor Ferguson Waterworks has agreed to match low bid on 148 of the items that complies with Modesto Municipal Code 8-3.206 Support of Local Vendors, and

WHEREAS, Modesto Municipal Code Section 8-3.203 generally requires all purchases, which meet or exceed \$50,000 for material, equipment or contractual services to be formally bid. The award of bids for the purchase of concrete boxes, covers, valves, hydrants and fittings to Ferguson Waterworks, Modesto, CA, Iconix Waterworks, McClellan CA, and American AVK, Minden, NV conforms to the Modesto Municipal Code, and

WHEREAS, expenditures for the prior 5-year agreement totaled \$2,443,654. With current pricing per RFB No. 2122-48 and accounting for potential producer price index (PPI) increases over the next five years, staff estimates an annual cost not to exceed \$765,000 among all three vendors, and not to exceed \$3,825,000 over five years.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the purchase agreements for concrete boxes, covers, valves, hydrants and fittings to Ferguson Waterworks, Modesto, CA, Iconix Waterworks,

McClellan CA, and American AVK, Minden, NV for a one-year agreement with four one-year extension options, for a total estimated annual amount not to exceed \$765,000 and a total amount not to exceed \$3,825,000 over five years, and

BE IT FURTHER RESOLVED that the Director of Finance is authorized to determine the amount of the agreement with each vendor, subject to the total not to exceed amount specified in this Resolution, and

BE IT FURTHER RESOLVED that the Director of Finance, or her designee, is hereby authorized to execute the Purchasing Agreements.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 6th day of December, 2022, by Vice Mayor Wright, who moved its adoption, which motion being duly seconded by Councilmember Williams, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Alvarez, Bavaro, Escutia-Braaton, Ricci, Williams, Wright, Mayor Zwahlen

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST.

  
DIANE NAYARES-PEREZ, CMC,  
City Clerk

(SEAL)

APPROVED AS TO FORM:

BY:

  
JOSE M. SANCHEZ, City Attorney

LINE ITEM	COM #	DESCRIPTION	QTY	UOM	FERGUSON ENTERPRISES	FERGUSON EXTENDED	ICONIX WATERWORKS	ICONIX EXTENDED	PACE SUPPLY	PACE EXTENDED	AMERICAN AVK COMPANY	AMERICAN AVK EXTENDED
1	100000	BOX, FIBRELYTE FL8 BOX	10	EA	\$ 44.80	\$ 448.00	\$ 43.63	\$ 436.30	\$ 52.00	\$ 520.00	NO BID	NO BID
2	100010	BOX, CONCRETE F08, 8 1/2" ROUND	300	EA	\$ 20.90	\$ 6,270.00	\$ 20.36	\$ 6,108.00	\$ 24.00	\$ 7,200.00	NO BID	NO BID
3	100020	BOX, CONCRETE UTILITY B9 BOX	1	EA	\$ 35.20	\$ 35.20	\$ 34.26	\$ 34.26	\$ 42.00	\$ 42.00	NO BID	NO BID
4	100040	BOX, CONCRETE UTILITY B12 BOX	20	EA	\$ 36.60	\$ 732.00	\$ 35.64	\$ 712.80	\$ 42.00	\$ 840.00	NO BID	NO BID
5	100050	BOX, FIBERLYTE FL 12 BOX	500	EA	\$ 118.30	\$ 59,150.00	\$ 115.36	\$ 57,680.00	\$ 136.00	\$ 68,000.00	NO BID	NO BID
6	100060	BOX, FIBRELYTE 12" FL30 BOX 12	1	EA	\$ 221.70	\$ 221.70	\$ 216.19	\$ 216.19	\$ 153.00	\$ 153.00	NO BID	NO BID
7	100080	BOX, CONCRETE ELECTRICAL N30 BOX	1	EA	\$ 50.60	\$ 50.60	\$ 49.29	\$ 49.29	\$ 58.00	\$ 58.00	NO BID	NO BID
8	100100	BOX, FIBRELYTE 12" FL36 BOX 12	14	EA	\$ 192.90	\$ 2,700.60	\$ 188.07	\$ 2,632.98	\$ 222.00	\$ 3,108.00	NO BID	NO BID
9	100120	BOX, CONCRETE UTILITY B36 BOX	5	EA	\$ 67.90	\$ 339.50	\$ 66.17	\$ 330.85	\$ 78.00	\$ 390.00	NO BID	NO BID
10	100180	BOX, CONCRETE VALVE TRAFFIC G5 BOX	230	EA	\$ 42.80	\$ 9,844.00	\$ 41.72	\$ 9,595.60	\$ 46.50	\$ 10,695.00	NO BID	NO BID
11	101000	COVER, CAST IRON MARKED WATER F8C	1	EA	\$ 28.60	\$ 28.60	\$ 27.87	\$ 27.87	\$ 31.00	\$ 31.00	NO BID	NO BID
12	101010	COVER, CAST IRON MARKED SEWER F8C	300	EA	\$ 28.60	\$ 8,580.00	\$ 27.87	\$ 8,361.00	\$ 31.00	\$ 9,300.00	NO BID	NO BID
13	101020	COVER, CAST IRON MARKED WATER B9C	8	EA	\$ 61.30	\$ 490.40	\$ 59.74	\$ 477.92	\$ 66.50	\$ 532.00	NO BID	NO BID
14	101021	COVER, FIBERLYTE W/CI READ LID MARKED WATER FL9D	50	EA	\$ 82.60	\$ 4,130.00	\$ 80.48	\$ 4,024.00	\$ 90.00	\$ 4,500.00	NO BID	NO BID
15	101040	COVER, CAST IRON MARKED WATER B12C	50	EA	\$ 50.90	\$ 2,545.00	\$ 49.57	\$ 2,478.50	\$ 132.00	\$ 6,600.00	NO BID	NO BID
16	101041	COVER, FIBERLYTE W/CI READ LID MARKED WATER FL12D	500	EA	\$ 66.30	\$ 33,150.00	\$ 64.64	\$ 32,320.00	\$ 72.00	\$ 36,000.00	NO BID	NO BID
17	101080	COVER, FIBRELYTE, MARKED ELEC., TRAFFIC SIGNAL, ST. LIGHT, WATER FL30D & 101084	1	EA	\$ 118.30	\$ 118.30	\$ 115.36	\$ 115.36	\$ 136.00	\$ 136.00	NO BID	NO BID
18	101081	COVER, CONCRETE MARKED ELECTRIC, TRAFFIC SIGNAL, OR STREET LIGHT N30D	1	EA	\$ 47.30	\$ 47.30	\$ 46.08	\$ 46.08	\$ 55.00	\$ 55.00	NO BID	NO BID
19	101082	COVER, CONCRETE W/CI READ LID MARKED WATER B30G	1	EA	\$ 65.70	\$ 65.70	\$ 64.03	\$ 64.03	\$ 78.00	\$ 78.00	NO BID	NO BID
20	101120	COVER, CONCRETE MARKED TRAFFIC SIGNAL B36D	1	EA	\$ 66.50	\$ 66.50	\$ 291.17	\$ 291.17	\$ 77.00	\$ 77.00	NO BID	NO BID
21	101121	COVER, CONCRETE W/CI READ LID MARKED WATER B36G	5	EA	\$ 81.60	\$ 408.00	\$ 79.56	\$ 397.80	\$ 94.00	\$ 470.00	NO BID	NO BID
22	101123	COVER, FIBRELYTE MARKED TRAFFIC SIGNAL OR WATER FL36D & 101124	1	EA	\$ 187.30	\$ 187.30	\$ 182.57	\$ 182.57	\$ 217.00	\$ 217.00	NO BID	NO BID
23	101180	COVER, CAST IRON TRAFFIC MARKED/ WATER/SEWER OR MONUMENT G5C	450	EA	\$ 32.20	\$ 14,490.00	\$ 31.34	\$ 14,103.00	\$ 35.00	\$ 15,750.00	NO BID	NO BID
24	103181	RING, GRADE CI (RISER) G5 1" W/BOLTS INSTALLED G5GR10	2	EA	\$ 45.40	\$ 90.80	\$ 44.20	\$ 88.40	\$ 56.00	\$ 112.00	NO BID	NO BID
25	103182	RING, GRADE CI (RISER) G5 1 1/2" W/BOLTS INSTALLED G5GR15	2	EA	\$ 51.70	\$ 103.40	\$ 50.37	\$ 100.74	\$ 63.00	\$ 126.00	NO BID	NO BID
26	103183	RING, GRADE CI (RISER) G5 2" W/BOLTS INSTALLED G5GR20	2	EA	\$ 65.10	\$ 130.20	\$ 63.49	\$ 126.98	\$ 80.00	\$ 160.00	NO BID	NO BID
27	101200	COVER, FIBERLYTE W/CI READ LID MARKED WATER FL16D	1	EA	\$ 84.20	\$ 84.20	\$ 82.08	\$ 82.08	\$ 130.00	\$ 130.00	NO BID	NO BID
28	101083	COVER, CHECKER, PLATE WITH READ LID, CHRISTY B30-61G	1	EA	\$ 244.50	\$ 244.50	\$ 238.40	\$ 238.40	\$ 281.00	\$ 281.00	NO BID	NO BID
29	101122	COVER, CHECKER, PLATE WITH READ LID, CHRISTY B36-61G	1	EA	\$ 298.60	\$ 298.60	\$ 291.17	\$ 291.17	\$ 343.00	\$ 343.00	NO BID	NO BID
30	101220	COVER, CAST IRON MARKED WATER BES G5C BES ONLY NO SUB	1	EA	\$ 32.20	\$ 32.20	\$ 31.34	\$ 31.34	\$ 35.00	\$ 35.00	NO BID	NO BID
31	101370	COVER, PLASTIC, GREEN MARKED "WATER" 15 1/2" X 10 3/16" NDS D1200SGWTRL	1	EA	\$ 24.60	\$ 24.60	\$ 28.00	\$ 28.00	\$ 60.00	\$ 60.00	NO BID	NO BID
32	101375	COVER, PLASTIC, GRN MKD "WTR MTR" CVR:19.75" X 13.25" LID: 7.5" X 4.5" CARSON 1220-5	1	EA	\$ 37.50	\$ 37.50	\$ 36.56	\$ 36.56	\$ 200.00	\$ 200.00	NO BID	NO BID
33	105000	GRATE ONLY, CAST IRON A109/C-2818-01	1	EA	\$ 212.00	\$ 212.00	\$ 206.70	\$ 206.70	\$ 278.00	\$ 278.00	NO BID	NO BID
34	105100	COVER, CI MANHOLE, W/ONE VENT HOLE TO BE MKD CITY OF MODESTO SEWER OR STORM	50	EA	\$ 330.50	\$ 16,525.00	\$ 322.24	\$ 16,112.00	\$ 434.00	\$ 21,700.00	NO BID	NO BID
35	107100	ASSEMBLY, CI MANHOLE COVER TO BE MARKED: "CITY OF MODESTO" "SEWER" OR "STORM"	50	EA	\$ 639.00	\$ 31,950.00	\$ 322.24	\$ 16,112.00	\$ 434.00	\$ 21,700.00	NO BID	NO BID
36	NEW ITEM	BOX, CI, ROUND, 10", WITHOUT FLANGE, BINGHAM & TAYLOR MARK V, CUL10RHVY, NO SUB	1	EA	\$ 96.60	\$ 96.60	\$ 92.01	\$ 92.01	\$ 150.00	\$ 150.00	NO BID	NO BID
37	100022	BOX, CI, ROUND, 10", WITH FLANGE, BINGHAM & TAYLOR MARK V, CUL10RHVYF, NO SUB	200	EA	\$ 135.50	\$ 27,100.00	\$ 134.63	\$ 26,926.00	\$ 207.00	\$ 41,400.00	NO BID	NO BID
38	101022	COVER, CI, ROUND, 10", STANDARD WATER, BINGHAM & TAYLOR MARK V, CUL10LHVYW	200	EA	\$ 43.60	\$ 8,720.00	\$ 43.95	\$ 8,790.00	\$ 66.00	\$ 13,200.00	NO BID	NO BID
39	128100	KIT GRIP RING ACCESSORY 4" C900 ROMAC ONLY NO SUB	75	EA	\$ 65.00	\$ 4,875.00	\$ 65.00	\$ 4,875.00	\$ 69.00	\$ 5,175.00	NO BID	NO BID
40	128110	KIT GRIP RING ACCESSORY 6" C900 ROMAC ONLY NO SUB	275	EA	\$ 75.00	\$ 20,625.00	\$ 75.00	\$ 20,625.00	\$ 79.00	\$ 21,725.00	NO BID	NO BID
41	128120	KIT GRIP RING ACCESSORY 8" C900 ROMAC ONLY NO SUB	251	EA	\$ 107.00	\$ 26,857.00	\$ 107.00	\$ 26,857.00	\$ 113.00	\$ 28,363.00	NO BID	NO BID
42	128130	KIT GRIP RING ACCESSORY 10" C900 ROMAC ONLY NO SUB	38	EA	\$ 153.00	\$ 5,814.00	\$ 153.00	\$ 5,814.00	\$ 163.00	\$ 6,194.00	NO BID	NO BID
43	128140	KIT GRIP RING ACCESSORY 12" C900 ROMAC ONLY NO SUB	88	EA	\$ 210.00	\$ 18,480.00	\$ 210.00	\$ 18,480.00	\$ 223.00	\$ 19,624.00	NO BID	NO BID
44	128200	GRIP RING 4" SDR	7	EA	\$ 76.30	\$ 534.10	\$ 65.00	\$ 455.00	\$ 79.00	\$ 553.00	NO BID	NO BID
45	128210	GRIP RING 6" SDR	5	EA	\$ 92.60	\$ 463.00	\$ 75.00	\$ 375.00	\$ 101.00	\$ 505.00	NO BID	NO BID
46	128220	GRIP RING 8" SDR	1	EA	\$ 129.90	\$ 129.90	\$ 107.00	\$ 107.00	\$ 144.00	\$ 144.00	NO BID	NO BID
47	128230	GRIP RING 10" SDR	1	EA	\$ 225.50	\$ 225.50	\$ 153.00	\$ 153.00	\$ 263.00	\$ 263.00	NO BID	NO BID
48	128240	ACCESSORY PACK GRIP RING 12" SDR	4	EA	\$ 239.20	\$ 956.80	\$ 210.00	\$ 840.00	\$ 299.00	\$ 1,196.00	NO BID	NO BID
49	128300	MEGA LUG C900 16"	1	EA	\$ 293.40	\$ 293.40	\$ 275.00	\$ 275.00	\$ 307.00	\$ 307.00	NO BID	NO BID
50	128310	MEGA LUG DUCTILE 16"	1	EA	\$ 234.20	\$ 234.20	\$ 269.00	\$ 269.00	\$ 243.00	\$ 243.00	NO BID	NO BID
51	212000	CHECK VALVE HYDRANT BREAK OFF SP-CLP619	12	EA	\$ 1,925.00	\$ 23,100.00	\$ 1,971.60	\$ 23,659.20	\$ 1,955.00	\$ 23,460.00	NO BID	NO BID
52	212005	CHECK VALVE HYDRANT REPAIR KIT, 6 HOLE CR1621360, LP619	2	EA	\$ 259.00	\$ 518.00	\$ 286.20	\$ 572.40	\$ 280.00	\$ 560.00	NO BID	NO BID
53	212010	CHECK VALVE HYDRANT FLOWGUARD S24 AVK	3	EA	\$ 1,800.80	\$ 5,402.40	\$ 1,832.44	\$ 5,497.32	\$ 2,222.00	\$ 6,666.00	\$ 1,488.62	\$ 4,465.86
54	128500	ADAPTER DI MJ X F 4" X 4" 6" LONG	4	EA	\$ 59.00	\$ 236.00	\$ 59.00	\$ 236.00	\$ 63.00	\$ 252.00	NO BID	NO BID
55	128510	ADAPTER DI MJ X F 6" X 6" 6" LONG	5	EA	\$ 81.00	\$ 405.00	\$ 81.00	\$ 405.00	\$ 87.00	\$ 435.00	NO BID	NO BID
56	128520	ADAPTER DI MJ X F 8" X 8" 6" LONG	11	EA	\$ 121.00	\$ 1,331.00	\$ 121.00	\$ 1,331.00	\$ 130.00	\$ 1,430.00	NO BID	NO BID
57	128530	ADAPTER DI MJ X F 10" X 10" 6" LONG	2	EA	\$ 210.00	\$ 420.00	\$ 210.00	\$ 420.00	\$ 226.00	\$ 452.00	NO BID	NO BID

58	128540	ADAPTER DI MJ X F 12" X 12" 6" LONG	6	EA	\$ 269.00	\$ 1,614.00	\$ 269.00	\$ 1,614.00	\$ 289.00	\$ 1,734.00	NO BID	NO BID
59	129220	BEND OFFSET DI MJ 4" X 12"	1	EA	\$ 126.00	\$ 126.00	\$ 126.00	\$ 126.00	\$ 159.00	\$ 159.00	NO BID	NO BID
60	129240	BEND OFFSET DI MJ 4" X 18"	1	EA	\$ 170.00	\$ 170.00	\$ 170.00	\$ 170.00	\$ 128.00	\$ 128.00	NO BID	NO BID
61	129260	BEND OFFSET DI MJ 4" X 24"	1	EA	\$ 196.00	\$ 196.00	\$ 196.00	\$ 196.00	\$ 228.00	\$ 228.00	NO BID	NO BID
62	129320	BEND OFFSET DI MJ 6" X 12"	10	EA	\$ 216.00	\$ 2,160.00	\$ 216.00	\$ 2,160.00	\$ 256.00	\$ 2,560.00	NO BID	NO BID
63	129340	BEND OFFSET DI MJ 6" X 18"	3	EA	\$ 265.00	\$ 795.00	\$ 265.00	\$ 795.00	\$ 312.00	\$ 936.00	NO BID	NO BID
64	129360	BEND OFFSET DI MJ 6" X 24"	2	EA	\$ 335.00	\$ 670.00	\$ 335.00	\$ 670.00	\$ 395.00	\$ 790.00	NO BID	NO BID
65	129520	BEND OFFSET DI MJ 8" X 12"	9	EA	\$ 308.00	\$ 2,772.00	\$ 308.00	\$ 2,772.00	\$ 363.00	\$ 3,267.00	NO BID	NO BID
66	129540	BEND OFFSET DI MJ 8" X 18"	4	EA	\$ 383.00	\$ 1,532.00	\$ 383.00	\$ 1,532.00	\$ 450.00	\$ 1,800.00	NO BID	NO BID
67	129560	BEND OFFSET DI MJ 8" X 24"	1	EA	\$ 546.00	\$ 546.00	\$ 546.00	\$ 546.00	\$ 645.00	\$ 645.00	NO BID	NO BID
68	129620	BEND OFFSET DI MJ 10" X 12"	1	EA	\$ 450.00	\$ 450.00	\$ 450.00	\$ 450.00	\$ 530.00	\$ 530.00	NO BID	NO BID
69	129640	BEND OFFSET DI MJ 10" X 18"	2	EA	\$ 534.00	\$ 1,068.00	\$ 534.00	\$ 1,068.00	\$ 594.00	\$ 1,188.00	NO BID	NO BID
70	129660	BEND OFFSET DI MJ 10" X 24"	2	EA	\$ 1,075.20	\$ 2,150.40	\$ 917.00	\$ 1,834.00	\$ 1,163.00	\$ 2,326.00	NO BID	NO BID
71	129720	BEND OFFSET DI MJ 12" X 12"	2	EA	\$ 537.00	\$ 1,074.00	\$ 537.00	\$ 1,074.00	\$ 599.00	\$ 1,198.00	NO BID	NO BID
72	129740	BEND OFFSET DI MJ 12" X 18"	3	EA	\$ 650.00	\$ 1,950.00	\$ 650.00	\$ 1,950.00	\$ 722.00	\$ 2,166.00	NO BID	NO BID
73	129760	BEND OFFSET DI MJ 12" X 24"	1	EA	\$ 917.00	\$ 917.00	\$ 917.00	\$ 917.00	\$ 1,018.00	\$ 1,018.00	NO BID	NO BID
74	130010	CROSS FIG 4"	1	EA	\$ 172.00	\$ 172.00	\$ 172.00	\$ 172.00	\$ 232.00	\$ 232.00	NO BID	NO BID
75	130020	CROSS FIG 6"	1	EA	\$ 359.20	\$ 359.20	\$ 210.00	\$ 210.00	\$ 376.00	\$ 376.00	NO BID	NO BID
76	130030	CROSS FIG 8"	2	EA	\$ 536.60	\$ 1,073.20	\$ 229.00	\$ 458.00	\$ 561.00	\$ 1,122.00	NO BID	NO BID
77	130040	CROSS FIG 10"	1	EA	\$ 1,059.80	\$ 1,059.80	\$ 368.00	\$ 368.00	\$ 1,108.00	\$ 1,108.00	NO BID	NO BID
78	130050	CROSS FIG 12"	1	EA	\$ 1,199.50	\$ 1,199.50	\$ 644.00	\$ 644.00	\$ 1,254.00	\$ 1,254.00	NO BID	NO BID
79	130090	CROSS DI FLG 10" X 8"	1	EA	\$ 830.00	\$ 830.00	\$ 830.00	\$ 830.00	\$ 890.00	\$ 890.00	NO BID	NO BID
80	NEW ITEM	CROSS DI FLG 12" X 8"	1	EA	\$ 1,080.00	\$ 1,080.00	\$ 1,080.00	\$ 1,080.00	\$ 1,200.00	\$ 1,200.00	NO BID	NO BID
81	NEW ITEM	CROSS DI FLG 12" X 10"	1	EA	\$ 1,298.00	\$ 1,298.00	\$ 1,298.00	\$ 1,298.00	\$ 1,441.00	\$ 1,441.00	NO BID	NO BID
82	NEW ITEM	CROSS DI FLG 16" X 16" X 12" X 12"	1	EA	\$ 1,892.00	\$ 1,892.00	\$ 1,892.00	\$ 1,892.00	\$ 2,232.00	\$ 2,232.00	NO BID	NO BID
83	130300	BEND CI FLANGE X FLANGE 4" X 90°	5	EA	\$ 113.00	\$ 565.00	\$ 113.00	\$ 565.00	\$ 123.00	\$ 615.00	NO BID	NO BID
84	130310	BEND CI FLANGE X FLANGE 6" X 90°	1	EA	\$ 175.00	\$ 175.00	\$ 175.00	\$ 175.00	\$ 189.00	\$ 189.00	NO BID	NO BID
85	130320	BEND CI FLANGE X FLANGE 8" X 90°	2	EA	\$ 286.00	\$ 572.00	\$ 286.00	\$ 572.00	\$ 307.00	\$ 614.00	NO BID	NO BID
86	130330	BEND CI FLANGE X FLANGE 10" X 90°	1	EA	\$ 455.00	\$ 455.00	\$ 455.00	\$ 455.00	\$ 490.00	\$ 490.00	NO BID	NO BID
87	130340	BEND CI FLANGE X FLANGE 12" X 90°	1	EA	\$ 592.00	\$ 592.00	\$ 592.00	\$ 592.00	\$ 656.00	\$ 656.00	NO BID	NO BID
88	130400	BEND DI MJ 11.25 4"	1	EA	\$ 47.00	\$ 47.00	\$ 47.00	\$ 47.00	\$ 52.00	\$ 52.00	NO BID	NO BID
89	130410	BEND DI MJ 11.25 6"	1	EA	\$ 78.00	\$ 78.00	\$ 78.00	\$ 78.00	\$ 82.00	\$ 82.00	NO BID	NO BID
90	130420	BEND DI MJ 11.25 8"	1	EA	\$ 105.00	\$ 105.00	\$ 105.00	\$ 105.00	\$ 124.00	\$ 124.00	NO BID	NO BID
91	130430	BEND DI MJ 11.25 10"	1	EA	\$ 174.60	\$ 174.60	\$ 105.00	\$ 105.00	\$ 184.00	\$ 184.00	NO BID	NO BID
92	130440	BEND DI MJ 11.25 12"	1	EA	\$ 210.00	\$ 210.00	\$ 210.00	\$ 210.00	\$ 240.00	\$ 240.00	NO BID	NO BID
93	130450	BEND DI MJ 22.50 4"	1	EA	\$ 48.00	\$ 48.00	\$ 48.00	\$ 48.00	\$ 52.00	\$ 52.00	NO BID	NO BID
94	130460	BEND DI MJ 22.50 6"	6	EA	\$ 74.00	\$ 444.00	\$ 74.00	\$ 444.00	\$ 79.00	\$ 474.00	NO BID	NO BID
95	130470	BEND DI MJ 22.50 8"	5	EA	\$ 116.00	\$ 580.00	\$ 116.00	\$ 580.00	\$ 124.00	\$ 620.00	NO BID	NO BID
96	130480	BEND DI MJ 22.50 10"	2	EA	\$ 171.00	\$ 342.00	\$ 171.00	\$ 342.00	\$ 189.00	\$ 378.00	NO BID	NO BID
97	130490	BEND DI MJ 22.50 12"	1	EA	\$ 224.00	\$ 224.00	\$ 224.00	\$ 224.00	\$ 249.00	\$ 249.00	NO BID	NO BID
98	130500	BEND DI MJ 4" X 45°	2	EA	\$ 51.00	\$ 102.00	\$ 51.00	\$ 102.00	\$ 55.00	\$ 110.00	NO BID	NO BID
99	130510	BEND DI MJ 6" X 45°	13	EA	\$ 81.00	\$ 1,053.00	\$ 81.00	\$ 1,053.00	\$ 88.00	\$ 1,144.00	NO BID	NO BID
100	130520	BEND DI MJ 8" X 45°	3	EA	\$ 118.00	\$ 354.00	\$ 118.00	\$ 354.00	\$ 128.00	\$ 384.00	NO BID	NO BID
101	130530	BEND DI MJ 10" X 45°	2	EA	\$ 172.00	\$ 344.00	\$ 172.00	\$ 344.00	\$ 184.00	\$ 368.00	NO BID	NO BID
102	130540	BEND DI MJ 12" X 45°	4	EA	\$ 257.00	\$ 1,028.00	\$ 257.00	\$ 1,028.00	\$ 278.00	\$ 1,112.00	NO BID	NO BID
103	130700	BEND DI MJ X FLANGE 4" X 45°	1	EA	\$ 77.00	\$ 77.00	\$ 77.00	\$ 77.00	\$ 85.00	\$ 85.00	NO BID	NO BID
104	130710	BEND DI MJ X FLANGE 6" X 45°	2	EA	\$ 111.00	\$ 222.00	\$ 111.00	\$ 222.00	\$ 120.00	\$ 240.00	NO BID	NO BID
105	130720	BEND DI MJ X FLANGE 8" X 45°	1	EA	\$ 214.00	\$ 214.00	\$ 214.00	\$ 214.00	\$ 230.00	\$ 230.00	NO BID	NO BID
106	130730	BEND DI MJ X FLANGE 10" X 45°	4	EA	\$ 314.00	\$ 1,256.00	\$ 314.00	\$ 1,256.00	\$ 350.00	\$ 1,400.00	NO BID	NO BID
107	130740	BEND DI MJ X FLANGE 12" X 45°	1	EA	\$ 467.00	\$ 467.00	\$ 467.00	\$ 467.00	\$ 520.00	\$ 520.00	NO BID	NO BID
108	131500	BEND DI MJ 4" X 90°	6	EA	\$ 62.00	\$ 372.00	\$ 62.00	\$ 372.00	\$ 66.00	\$ 396.00	NO BID	NO BID
109	131510	BEND DI MJ 6" X 90°	18	EA	\$ 101.00	\$ 1,818.00	\$ 101.00	\$ 1,818.00	\$ 111.00	\$ 1,998.00	NO BID	NO BID
110	131520	BEND DI MJ 8" X 90°	12	EA	\$ 146.00	\$ 1,752.00	\$ 146.00	\$ 1,752.00	\$ 158.00	\$ 1,896.00	NO BID	NO BID
111	131530	BEND DI MJ 10" X 90°	1	EA	\$ 230.00	\$ 230.00	\$ 230.00	\$ 230.00	\$ 260.00	\$ 260.00	NO BID	NO BID
112	131540	BEND DI MJ 12" X 90°	3	EA	\$ 310.00	\$ 930.00	\$ 310.00	\$ 930.00	\$ 350.00	\$ 1,050.00	NO BID	NO BID
113	131700	BEND DI MJ X F 4" X 90°	4	EA	\$ 70.00	\$ 280.00	\$ 70.00	\$ 280.00	\$ 78.00	\$ 312.00	NO BID	NO BID
114	131710	BEND DI MJ X F 6 X 90°	3	EA	\$ 123.00	\$ 369.00	\$ 123.00	\$ 369.00	\$ 133.00	\$ 399.00	NO BID	NO BID
115	131720	BEND DI MJ X F 8" X 90°	7	EA	\$ 215.00	\$ 1,505.00	\$ 215.00	\$ 1,505.00	\$ 233.00	\$ 1,631.00	NO BID	NO BID
116	131730	BEND DI MJ X F 10" X 90°	3	EA	\$ 350.00	\$ 1,050.00	\$ 350.00	\$ 1,050.00	\$ 379.00	\$ 1,137.00	NO BID	NO BID
117	131740	BEND DI MJ X F 12 X 90°	1	EA	\$ 503.00	\$ 503.00	\$ 503.00	\$ 503.00	\$ 565.00	\$ 565.00	NO BID	NO BID
118	132100	CAP DI MJ 4" WITH 2" FIPT OUTLET	3	EA	\$ 48.00	\$ 144.00	\$ 48.00	\$ 144.00	\$ 52.00	\$ 156.00	NO BID	NO BID
119	132120	CAP DI MJ 6" WITH 2" FIPT OUTLET	9	EA	\$ 65.00	\$ 585.00	\$ 65.00	\$ 585.00	\$ 73.00	\$ 657.00	NO BID	NO BID
120	NEW ITEM	CAP DI MJ 6" WITH 4" FIPT OUTLET	1	EA	\$ 150.80	\$ 150.80	\$ 505.00	\$ 505.00	\$ 160.00	\$ 160.00	NO BID	NO BID
121	132140	CAP DI MJ 8" WITH 2" FIPT OUTLET	15	EA	\$ 91.00	\$ 1,365.00	\$ 91.00	\$ 1,365.00	\$ 101.00	\$ 1,515.00	NO BID	NO BID
122	132145	CAP DI MJ 8" WITH 4" FIPT OUTLET	1	EA	\$ 177.60	\$ 177.60	\$ 536.00	\$ 536.00	\$ 240.00	\$ 240.00	NO BID	NO BID
123	132160	CAP DI MJ 10" WITH 2" FIPT OUTLET	2	EA	\$ 108.00	\$ 216.00	\$ 108.00	\$ 216.00	\$ 121.00	\$ 242.00	NO BID	NO BID
124	132165	CAP DI MJ 10" WITH 4" FIPT OUTLET	1	EA	\$ 194.80	\$ 194.80	\$ 576.00	\$ 576.00	\$ 340.00	\$ 340.00	NO BID	NO BID
125	132180	CAP DI MJ 12" WITH 2" FIPT OUTLET	3	EA	\$ 150.00	\$ 450.00	\$ 150.00	\$ 450.00	\$ 170.00	\$ 510.00	NO BID	NO BID
126	NEW ITEM	CAP DI MJ 12" WITH 4" FIPT OUTLET	1	EA	\$ 237.40	\$ 237.40	\$ 609.00	\$ 609.00	\$ 425.00	\$ 425.00	NO BID	NO BID
127	132203	CAP DI MJ 16" WITH 4" FIPT OUTLET	1	EA	\$ 367.00	\$ 367.00	\$ 997.00	\$ 997.00	\$ 800.00	\$ 800.00	NO BID	NO BID
128	132210	MJ PLUG / 2" FIPT OUTLET 4"	1	EA	\$ 53.00	\$ 53.00	\$ 53.00	\$ 53.00	\$ 60.00	\$ 60.00	NO BID	NO BID

129	NEW ITEM	PLUG MJ 6" WITH 2" FIPT OUTLET	1	EA	\$ 77.00	\$ 77.00	\$ 77.00	\$ 77.00	\$ 92.00	\$ 92.00	NO BID	NO BID
130	132215	MJ PLUG / 4" FIPT OUTLET 6"	4	EA	\$ 164.20	\$ 656.80	\$ 533.00	\$ 2,132.00	\$ 175.00	\$ 700.00	NO BID	NO BID
131	132219	MJ PLUG / 2" FIPT OUTLET 8"	5	EA	\$ 104.00	\$ 520.00	\$ 104.00	\$ 520.00	\$ 125.00	\$ 625.00	NO BID	NO BID
132	132220	MJ PLUG / 4" FIPT OUTLET 8"	2	EA	\$ 190.50	\$ 381.00	\$ 567.00	\$ 1,134.00	\$ 240.00	\$ 480.00	NO BID	NO BID
133	132225	MJ PLUG / 4" FIPT OUTLET 10"	1	EA	\$ 251.30	\$ 251.30	\$ 599.00	\$ 599.00	\$ 360.00	\$ 360.00	NO BID	NO BID
134	132230	MJ PLUG / 4" FIPT OUTLET 12"	2	EA	\$ 249.40	\$ 498.80	\$ 630.00	\$ 1,260.00	\$ 445.00	\$ 890.00	NO BID	NO BID
135	132300	REDUCER DI MJ 6" X 4"	1	EA	\$ 58.00	\$ 58.00	\$ 58.00	\$ 58.00	\$ 66.00	\$ 66.00	NO BID	NO BID
136	132310	REDUCER, SMALL END BELL 6" X 4"	7	EA	\$ 60.00	\$ 420.00	\$ 60.00	\$ 420.00	\$ 71.00	\$ 497.00	NO BID	NO BID
137	132400	REDUCER DI MJ 8" X 6"	1	EA	\$ 85.00	\$ 85.00	\$ 85.00	\$ 85.00	\$ 95.00	\$ 95.00	NO BID	NO BID
138	132480	REDUCER DI MJ 12" X 8"	3	EA	\$ 146.00	\$ 438.00	\$ 146.00	\$ 438.00	\$ 160.00	\$ 480.00	NO BID	NO BID
139	132500	REDUCER DI MJ 12" X 10"	1	EA	\$ 163.00	\$ 163.00	\$ 163.00	\$ 163.00	\$ 185.00	\$ 185.00	NO BID	NO BID
140	132610	REDUCER MJ SMALL END BELL 8" X 6"	9	EA	\$ 91.00	\$ 819.00	\$ 91.00	\$ 819.00	\$ 99.00	\$ 891.00	NO BID	NO BID
141	132620	REDUCER MJ SMALL END BELL 10" X 8"	2	EA	\$ 151.00	\$ 302.00	\$ 151.00	\$ 302.00	\$ 178.00	\$ 356.00	NO BID	NO BID
142	132630	REDUCER, LARGE END BELL 6" X 4"	1	EA	\$ 91.00	\$ 91.00	\$ 91.00	\$ 91.00	\$ 99.00	\$ 99.00	NO BID	NO BID
143	132650	REDUCER, LARGE END BELL 8" X 6"	1	EA	\$ 83.00	\$ 83.00	\$ 83.00	\$ 83.00	\$ 93.00	\$ 93.00	NO BID	NO BID
144	132680	REDUCER, LARGE END BELL 10" X 8"	2	EA	\$ 152.00	\$ 304.00	\$ 152.00	\$ 304.00	\$ 164.00	\$ 328.00	NO BID	NO BID
145	132720	REDUCER, LARGE END BELL 12" X 10"	1	EA	\$ 199.00	\$ 199.00	\$ 199.00	\$ 199.00	\$ 221.00	\$ 221.00	NO BID	NO BID
146	133800	SLEEVE DI MJ X MJ 4" X 12"	1	EA	\$ 54.00	\$ 54.00	\$ 54.00	\$ 54.00	\$ 59.00	\$ 59.00	NO BID	NO BID
147	133810	SLEEVE DI MJ X MJ 6" X 12"	5	EA	\$ 91.00	\$ 455.00	\$ 91.00	\$ 455.00	\$ 98.00	\$ 490.00	NO BID	NO BID
148	133820	SLEEVE DI MJ X MJ 8" X 12"	2	EA	\$ 146.00	\$ 292.00	\$ 146.00	\$ 292.00	\$ 157.00	\$ 314.00	NO BID	NO BID
149	133830	SLEEVE DI MJ X MJ 10" X 12"	1	EA	\$ 175.00	\$ 175.00	\$ 175.00	\$ 175.00	\$ 189.00	\$ 189.00	NO BID	NO BID
150	133840	SLEEVE DI MJ X MJ 12" X 12"	1	EA	\$ 236.00	\$ 236.00	\$ 236.00	\$ 236.00	\$ 253.00	\$ 253.00	NO BID	NO BID
151	133860	SLEEVE DI MJ X MJ 16" X 12"	1	EA	\$ 263.50	\$ 263.50	\$ 451.00	\$ 451.00	\$ 502.00	\$ 502.00	NO BID	NO BID
152	134140	SPOOL DI FLANGE X FLANGE 4" X 12"	3	EA	\$ 275.00	\$ 825.00	\$ 275.49	\$ 826.48	\$ 305.00	\$ 915.00	NO BID	NO BID
153	134160	SPOOL DI FLANGE X FLANGE 6" X 12"	3	EA	\$ 346.00	\$ 1,038.00	\$ 346.20	\$ 1,038.59	\$ 363.00	\$ 1,089.00	NO BID	NO BID
154	134180	SPOOL DI FLANGE X FLANGE 8" X 12"	3	EA	\$ 511.00	\$ 1,533.00	\$ 511.00	\$ 1,533.01	\$ 535.00	\$ 1,605.00	NO BID	NO BID
155	134340	SPOOL DI FLANGE X FLANGE 4" X 18"	1	EA	\$ 305.00	\$ 305.00	\$ 306.34	\$ 306.34	\$ 306.00	\$ 306.00	NO BID	NO BID
156	134360	SPOOL DI FLANGE X FLANGE 6" X 18"	2	EA	\$ 382.00	\$ 764.00	\$ 382.66	\$ 765.32	\$ 392.00	\$ 784.00	NO BID	NO BID
157	134380	SPOOL DI FLANGE X FLANGE 8" X 18"	1	EA	\$ 560.00	\$ 560.00	\$ 560.74	\$ 560.74	\$ 577.00	\$ 577.00	NO BID	NO BID
158	134740	SPOOL DI FLANGE X FLANGE 4" X 36"	1	EA	\$ 396.00	\$ 396.00	\$ 396.44	\$ 396.44	\$ 407.00	\$ 407.00	NO BID	NO BID
159	134760	SPOOL DI FLANGE X FLANGE 6" X 36"	1	EA	\$ 490.00	\$ 490.00	\$ 490.78	\$ 490.78	\$ 503.00	\$ 503.00	NO BID	NO BID
160	134780	SPOOL DI FLANGE X FLANGE 8" X 36"	3	EA	\$ 713.00	\$ 2,139.00	\$ 713.38	\$ 2,140.14	\$ 732.00	\$ 2,196.00	NO BID	NO BID
161	134790	SPOOL DI FLANGE X FLANGE 4" X 48"	1	EA	\$ 456.86	\$ 456.86	\$ 456.86	\$ 456.86	\$ 468.00	\$ 468.00	NO BID	NO BID
162	134795	SPOOL DI FLANGE X FLANGE 6" X 48"	1	EA	\$ 561.80	\$ 561.80	\$ 561.80	\$ 561.80	\$ 577.00	\$ 577.00	NO BID	NO BID
163	134800	SPOOL DI FLANGE X FLANGE 8" X 48"	1	EA	\$ 1,078.00	\$ 1,078.00	\$ 815.14	\$ 815.14	\$ 836.00	\$ 836.00	NO BID	NO BID
164	NEW ITEM	SPOOL DI FLANGE X FLANGE 10" X 48"	1	EA	\$ 1,051.52	\$ 1,051.52	\$ 1,051.52	\$ 1,051.52	\$ 1,078.00	\$ 1,078.00	NO BID	NO BID
165	134805	SPOOL DI FLANGE X FLANGE 12" X 48"	1	EA	\$ 1,360.00	\$ 1,360.00	\$ 1,362.10	\$ 1,362.10	\$ 1,397.00	\$ 1,397.00	NO BID	NO BID
166	134820	SPOOL DI FLANGE X FLANGE 4" X 60"	1	EA	\$ 504.00	\$ 504.00	\$ 517.28	\$ 517.28	\$ 515.00	\$ 515.00	NO BID	NO BID
167	134825	SPOOL DI FLANGE X FLANGE 6" X 60"	7	EA	\$ 633.88	\$ 4,437.16	\$ 633.88	\$ 4,437.16	\$ 651.00	\$ 4,557.00	NO BID	NO BID
168	134830	SPOOL DI FLANGE X FLANGE 8" X 60"	1	EA	\$ 915.00	\$ 915.00	\$ 915.84	\$ 915.84	\$ 940.00	\$ 940.00	NO BID	NO BID
169	134850	SPOOL DI FLANGE X FLANGE 10" X 60"	3	EA	\$ 1,183.00	\$ 3,549.00	\$ 1,184.02	\$ 3,552.06	\$ 1,215.00	\$ 3,645.00	NO BID	NO BID
170	134840	SPOOL DI FLANGE X FLANGE 4" X 72"	5	EA	\$ 576.00	\$ 2,880.00	\$ 577.70	\$ 2,888.50	\$ 606.00	\$ 3,030.00	NO BID	NO BID
171	134860	SPOOL DI FLANGE X FLANGE 6" X 72"	2	EA	\$ 706.00	\$ 1,412.00	\$ 707.02	\$ 1,414.04	\$ 740.00	\$ 1,480.00	NO BID	NO BID
172	134855	SPOOL DI FLANGE X FLANGE 10" X 72"	2	EA	\$ 1,315.00	\$ 2,630.00	\$ 1,316.52	\$ 2,633.04	\$ 1,385.00	\$ 2,770.00	NO BID	NO BID
173	135100	TEE CI FLG X FLG 4"	1	EA	\$ 206.00	\$ 206.00	\$ 206.00	\$ 206.00	\$ 222.00	\$ 222.00	NO BID	NO BID
174	135110	TEE CI FLG X FLG 6"	1	EA	\$ 256.00	\$ 256.00	\$ 256.00	\$ 256.00	\$ 275.00	\$ 275.00	NO BID	NO BID
175	135120	TEE CI FLG X FLG 8"	10	EA	\$ 427.00	\$ 4,270.00	\$ 427.00	\$ 4,270.00	\$ 474.00	\$ 4,740.00	NO BID	NO BID
176	135130	TEE CI FLG X FLG 10"	2	EA	\$ 649.00	\$ 1,298.00	\$ 649.00	\$ 1,298.00	\$ 720.00	\$ 1,440.00	NO BID	NO BID
177	135140	TEE CI FLG X FLG 12"	1	EA	\$ 924.00	\$ 924.00	\$ 924.00	\$ 924.00	\$ 1,050.00	\$ 1,050.00	NO BID	NO BID
178	135200	TEE FIG SMALL END BELL 10" X 6"	1	EA	\$ 351.10	\$ 351.10	\$ 231.00	\$ 231.00	\$ 580.00	\$ 580.00	NO BID	NO BID
179	135300	TEE CI FLG X FLG 8" X 6"	2	EA	\$ 368.00	\$ 736.00	\$ 368.00	\$ 736.00	\$ 398.00	\$ 796.00	NO BID	NO BID
180	135310	TEE FIG SMALL END BELL 10" X 8"	1	EA	\$ 377.90	\$ 377.90	\$ 270.00	\$ 270.00	\$ 600.00	\$ 600.00	NO BID	NO BID
181	135400	TEE CI FLG X FLG 12" X 6"	4	EA	\$ 763.30	\$ 3,053.20	\$ 784.00	\$ 3,136.00	\$ 798.00	\$ 3,192.00	NO BID	NO BID
182	135410	TEE CI FLG X FLG 12" X 8"	3	EA	\$ 784.00	\$ 2,352.00	\$ 784.00	\$ 2,352.00	\$ 840.00	\$ 2,520.00	NO BID	NO BID
183	135495	TEE FLG 16" X 12"	1	EA	\$ 1,460.00	\$ 1,460.00	\$ 1,460.00	\$ 1,460.00	\$ 1,730.00	\$ 1,730.00	NO BID	NO BID
184	135500	TEE DI MJ X MJ X FLANGE 4"	1	EA	\$ 105.00	\$ 105.00	\$ 105.00	\$ 105.00	\$ 120.00	\$ 120.00	NO BID	NO BID
185	135510	TEE DI MJ X MJ X FLANGE 6"	2	EA	\$ 166.00	\$ 332.00	\$ 166.00	\$ 332.00	\$ 180.00	\$ 360.00	NO BID	NO BID
186	135520	TEE DI MJ X MJ X FLANGE 8"	8	EA	\$ 256.00	\$ 2,048.00	\$ 256.00	\$ 2,048.00	\$ 275.00	\$ 2,200.00	NO BID	NO BID
187	135525	TEE MJ X FLG DI 10"	1	EA	\$ 468.00	\$ 468.00	\$ 468.00	\$ 468.00	\$ 510.00	\$ 510.00	NO BID	NO BID
188	135600	TEE DI MJ X MJ X FLANGE 8" X 6"	3	EA	\$ 201.00	\$ 603.00	\$ 201.00	\$ 603.00	\$ 215.00	\$ 645.00	NO BID	NO BID
189	135650	TEE MJ X FIG 10" X 6"	1	EA	\$ 342.00	\$ 342.00	\$ 342.00	\$ 342.00	\$ 380.00	\$ 380.00	NO BID	NO BID
190	135700	TEE DI MJ X MJ X FLANGE 12" X 6"	1	EA	\$ 384.00	\$ 384.00	\$ 384.00	\$ 384.00	\$ 415.00	\$ 415.00	NO BID	NO BID
191	135710	TEE DI MJ X MJ X FLANGE 12" X 8"	1	EA	\$ 427.00	\$ 427.00	\$ 427.00	\$ 427.00	\$ 475.00	\$ 475.00	NO BID	NO BID
192	136090	BURY HYDRANT MJ X F 6" X 6" X 24"	2	EA	\$ 350.00	\$ 700.00	\$ 384.78	\$ 769.56	\$ 415.00	\$ 830.00	NO BID	NO BID
193	136095	BURY HYDRANT MJ X F 6" X 6" X 30"	1	EA	\$ 345.00	\$ 345.00	\$ 384.78	\$ 384.78	\$ 430.00	\$ 430.00	NO BID	NO BID
194	136100	BURY HYDRANT DI MJ X F 6" X 6" X 36"	3	EA	\$ 359.00	\$ 1,077.00	\$ 408.10	\$ 1,224.30	\$ 439.00	\$ 1,317.00	NO BID	NO BID
195	136150	BURY HYDRANT DI MJ X F 6" X 6" X 42"	28	EA	\$ 410.00	\$ 11,480.00	\$ 477.00	\$ 13,356.00	\$ 428.00	\$ 11,984.00	NO BID	NO BID
196	136170	FLANGE BLIND CI OR STEEL 6 HOLE 6" CLASS D	2	EA	\$ 150.10	\$ 300.20	\$ 63.00	\$ 126.00	\$ 169.00	\$ 338.00	NO BID	NO BID
197	136200	FLANGE BLIND CI/DI 125LB 4"	1	EA	\$ 53.00	\$ 53.00	\$ 53.00	\$ 53.00	\$ 60.00	\$ 60.00	NO BID	NO BID
198	136210	FLANGE BLIND CI/DI 125LB 6"	2	EA	\$ 79.00	\$ 158.00	\$ 79.00	\$ 158.00	\$ 94.00	\$ 188.00	NO BID	NO BID
199	136220	FLANGE BLIND CI/DI 125LB 8"	1	EA	\$ 133.00	\$ 133.00	\$ 133.00	\$ 133.00	\$ 150.00	\$ 150.00	NO BID	NO BID

200	136230	FLANGE BLIND CI/DI 125LB 10"	1	EA	\$ 199.00	\$ 199.00	\$ 199.00	\$ 199.00	\$ 235.00	\$ 235.00	NO BID	NO BID
201	136240	FLANGE BLIND CI/DI 125LB 12"	1	EA	\$ 268.00	\$ 268.00	\$ 268.00	\$ 268.00	\$ 320.00	\$ 320.00	NO BID	NO BID
202	136310	RISER HYDRANT CI BREAK OFF FLANGE X FLANGE 6" X 6"	2	EA	\$ 130.00	\$ 260.00	\$ 151.58	\$ 303.16	\$ 149.00	\$ 298.00	NO BID	NO BID
203	136320	RISER HYDRANT CI BREAK OFF FLANGE X FLANGE 6" X 8"	38	EA	\$ 134.40	\$ 5,107.20	\$ 180.20	\$ 6,847.60	\$ 152.00	\$ 5,776.00	NO BID	NO BID
204	136330	RISER HYDRANT CI BREAK OFF FLANGE X FLANGE 6" X 10"	39	EA	\$ 151.40	\$ 5,904.60	\$ 201.40	\$ 7,854.60	\$ 170.00	\$ 6,630.00	NO BID	NO BID
205	136340	RISER HYDRANT CI BREAK OFF FLANGE X FLANGE 6" X 12"	14	EA	\$ 152.80	\$ 2,139.20	\$ 206.70	\$ 2,893.80	\$ 176.00	\$ 2,464.00	NO BID	NO BID
206	136000	HYDRANT, FIRE WET BARREL, CI BODY, EPOXY COATED. PAINTED YELLOW. (1) 2 1/2" AND (1) 4 1/2" OUTLET. 6 HOLE, WITH VENTED CI CAPS. CAPS TO INCLUDE: CHAIN, CHAIN RING, & GASKET. ACCEPTABLE BRANDS: JONES J4040, CLOW 850, AVK 2470 STATE MFG BRAND:	100	EA	\$ 2,110.00	\$ 211,000.00	\$ 2,038.00	\$203,800.00	\$ 2,043.00	\$ 204,300.00	\$ 1,470.50	\$ 147,050.00
207	136020	HYDRANT, FIRE WET BARREL, CI BODY, EPOXY COATED. PAINTED YELLOW. (2) 2 1/2" AND (1) 4 1/2" OUTLET. 6 HOLE, WITH VENTED CI CAPS. CAPS TO INCLUDE: CHAIN, CHAIN RING, & GASKET. ACCEPTABLE BRANDS: JONES J4060, CLOW 860, AVK 2490 STATE MFG BRAND:	10	EA	\$ 2,881.00	\$ 28,810.00	\$ 2,782.00	\$ 27,820.00	\$ 2,900.00	\$ 29,000.00	\$ 2,042.50	\$ 20,425.00
208	136900	CAP, HYDRANT, CAST IRON, VENTED WITH CHAIN RING, CHAINS, AND GASKET.	1	EA	\$ 67.40	\$ 67.40	\$ 68.00	\$ 68.00	\$ 78.00	\$ 78.00	NO BID	NO BID
209	136910	CAP, HYDRANT, CAST IRON, VENTED WITH CHAIN RINGS, CHAIN AND GASKET.	1	EA	\$ 147.00	\$ 147.00	\$ 151.00	\$ 151.00	\$ 175.00	\$ 175.00	NO BID	NO BID
210	NEW ITEM	VALVE, SWING CHECK, FLANGE 6"X14" W/OUTSIDE LEVER & WEIGHT STATE MFG BRAND/MDL NO:	1	EA	\$ 939.20	\$ 939.20	\$ 1,672.00	\$ 1,672.00	\$ 1,275.00	\$ 1,275.00	\$ 1,046.10	\$ 1,046.10
211	144630	VALVE, SWING CHECK, FLANGE 8"X19.5" W/OUTSIDE LEVER & WEIGHT STATE MFG BRAND/MDL NO:	1	EA	\$ 1,467.20	\$ 1,467.20	\$ 2,534.00	\$ 2,534.00	\$ 2,100.00	\$ 2,100.00	\$ 1,584.90	\$ 1,584.90
212	NEW ITEM	VALVE, SWING CHECK, FLANGE 10" X 24.5" W/OUTSIDE LEVER & WEIGHT STATE MFG BRAND/MDL NO:	1	EA	\$ 1,848.40	\$ 1,848.40	\$ 4,067.00	\$ 4,067.00	\$ 3,130.00	\$ 3,130.00	\$ 2,542.50	\$ 2,542.50
213	NEW ITEM	VALVE, SWING CHECK, FLANGE 12"X 27.5 W/OUTSIDE LEVER & WEIGHT STATE MFG BRAND/MDL NO:	1	EA	\$ 2,939.40	\$ 2,939.40	\$ 5,848.00	\$ 5,848.00	\$ 4,035.00	\$ 4,035.00	\$ 3,656.10	\$ 3,656.10
214	144710	VALVE, GATE, RESILIENT SEAT, WITH OPERATING NUT AND NON RISING STAINLESS STEEL STEM. BONNET AND BODY TO BE EPOXY COATED INSIDE AND OUTSIDE. F X F 4" MFG BRAND/MDL NO:	1	EA	\$ 605.20	\$ 605.20	\$ 590.00	\$ 590.00	\$ 735.00	\$ 735.00	\$ 487.62	\$ 487.62
215	144720	VALVE, GATE, RESILIENT SEAT, WITH OPERATING NUT AND NON RISING STAINLESS STEEL STEM. BONNET AND BODY TO BE EPOXY COATED INSIDE AND OUTSIDE. F X F 6" MFG BRAND/MDL NO:	2	EA	\$ 860.30	\$ 1,720.60	\$ 788.00	\$ 1,576.00	\$ 955.00	\$ 1,910.00	\$ 651.42	\$ 1,302.84
216	144730	VALVE, GATE, RESILIENT SEAT, WITH OPERATING NUT AND NON RISING STAINLESS STEEL STEM. BONNET AND BODY TO BE EPOXY COATED INSIDE AND OUTSIDE. F X F 8" MFG BRAND/MDL NO:	2	EA	\$ 1,345.00	\$ 2,690.00	\$ 1,233.00	\$ 2,466.00	\$ 1,450.00	\$ 2,900.00	\$ 1,018.50	\$ 2,037.00
217	144740	VALVE, GATE, RESILIENT SEAT, WITH OPERATING NUT AND NON RISING STAINLESS STEEL STEM. BONNET AND BODY TO BE EPOXY COATED INSIDE AND OUTSIDE. F X F 10" MFG BRAND/MDL NO:	1	EA	\$ 2,008.70	\$ 2,008.70	\$ 1,958.00	\$ 1,958.00	\$ 2,265.00	\$ 2,265.00	\$ 1,617.42	\$ 1,617.42
218	144750	VALVE, GATE, RESILIENT SEAT, WITH OPERATING NUT AND NON RISING STAINLESS STEEL STEM. BONNET AND BODY TO BE EPOXY COATED INSIDE AND OUTSIDE. F X F 12" MFG BRAND/MDL NO:	1	EA	\$ 2,425.50	\$ 2,425.50	\$ 2,364.00	\$ 2,364.00	\$ 2,710.00	\$ 2,710.00	\$ 1,953.42	\$ 1,953.42
219	NEW ITEM	VALVE, GATE, RESILIENT SEAT, WITH OPERATING NUT AND NON RISING STAINLESS STEEL STEM. BONNET AND BODY TO BE EPOXY COATED INSIDE AND OUTSIDE. F X F 16" MFG BRAND/MDL NO:	1	EA	\$ 8,206.00	\$ 8,206.00	\$ 8,001.00	\$ 8,001.00	\$ 9,540.00	\$ 9,540.00	\$ 7,235.34	\$ 7,235.34
220	144810	VALVE, GATE, RESILIENT SEAT, WITH OPERATING NUT AND NON RISING STAINLESS STEEL STEM. BONNET AND BODY TO BE EPOXY COATED INSIDE AND OUTSIDE. MJ X F 4" MFG BRAND/MDL NO:	9	EA	\$ 582.80	\$ 5,245.20	\$ 568.33	\$ 5,114.97	\$ 711.00	\$ 6,399.00	\$ 469.98	\$ 4,229.82
221	144820	VALVE, GATE, RESILIENT SEAT, WITH OPERATING NUT AND NON RISING STAINLESS STEEL STEM. BONNET AND BODY TO BE EPOXY COATED INSIDE AND OUTSIDE. MJ X F 6" MFG BRAND/MDL NO:	31	EA	\$ 779.00	\$ 24,149.00	\$ 760.00	\$ 23,560.00	\$ 796.00	\$ 24,676.00	\$ 627.90	\$ 19,464.90
222	144830	VALVE, GATE, RESILIENT SEAT, WITH OPERATING NUT AND NON RISING STAINLESS STEEL STEM. BONNET AND BODY TO BE EPOXY COATED INSIDE AND OUTSIDE. MJ X F 8" MFG BRAND/MDL NO:	30	EA	\$ 1,217.00	\$ 36,510.00	\$ 1,165.00	\$ 34,950.00	\$ 1,248.00	\$ 37,440.00	\$ 980.70	\$ 29,421.00
223	144840	VALVE, GATE, RESILIENT SEAT, WITH OPERATING NUT AND NON RISING STAINLESS STEEL STEM. BONNET AND BODY TO BE EPOXY COATED INSIDE AND OUTSIDE. MJ X F 10" MFG BRAND/MDL NO:	5	EA	\$ 1,935.00	\$ 9,675.00	\$ 1,867.00	\$ 9,335.00	\$ 2,090.00	\$ 10,450.00	\$ 1,557.78	\$ 7,788.90
224	144850	VALVE, GATE, RESILIENT SEAT, WITH OPERATING NUT AND NON RISING STAINLESS STEEL STEM. BONNET AND BODY TO BE EPOXY COATED INSIDE AND OUTSIDE. MJ X F 12" MFG BRAND/MDL NO:	2	EA	\$ 2,336.00	\$ 4,672.00	\$ 2,255.00	\$ 4,510.00	\$ 2,530.00	\$ 5,060.00	\$ 1,881.18	\$ 3,762.36
225	144854	VALVE, GATE, RESILIENT SEAT, WITH OPERATING NUT AND NON RISING STAINLESS STEEL STEM. BONNET AND BODY TO BE EPOXY COATED INSIDE AND OUTSIDE. MJ X F 16" MFG BRAND/MDL NO:	5	EA	\$ 8,206.00	\$ 41,030.00	\$ 6,926.00	\$ 34,630.00	\$ 8,881.00	\$ 44,405.00	\$ 7,235.34	\$ 36,176.70

226	144860	VALVE, GATE, RESILIENT SEAT, WITH OPERATING NUT AND NON RISING STAINLESS STEEL STEM. BONNET AND BODY TO BE EPOXY COATED INSIDE AND OUTSIDE. MJ X MJ 4" MFG BRAND/MDL NO:	5	EA	\$ 610.50	\$ 3,052.50	\$ 590.00	\$ 2,950.00	\$ 638.00	\$ 3,190.00	\$ 491.82	\$ 2,459.10
227	144870	VALVE, GATE, RESILIENT SEAT, WITH OPERATING NUT AND NON RISING STAINLESS STEEL STEM. BONNET AND BODY TO BE EPOXY COATED INSIDE AND OUTSIDE. MJ X MJ 6" MFG BRAND/MDL NO:	5	EA	\$ 779.00	\$ 3,895.00	\$ 752.00	\$ 3,760.00	\$ 810.00	\$ 4,050.00	\$ 627.90	\$ 3,139.50
228	144880	VALVE, GATE, RESILIENT SEAT, WITH OPERATING NUT AND NON RISING STAINLESS STEEL STEM. BONNET AND BODY TO BE EPOXY COATED INSIDE AND OUTSIDE. MJ X MJ 8" MFG BRAND/MDL NO:	11	EA	\$ 1,240.00	\$ 13,640.00	\$ 1,209.00	\$ 13,299.00	\$ 1,275.00	\$ 14,025.00	\$ 999.18	\$ 10,990.98
229	144890	VALVE, GATE, RESILIENT SEAT, WITH OPERATING NUT AND NON RISING STAINLESS STEEL STEM. BONNET AND BODY TO BE EPOXY COATED INSIDE AND OUTSIDE. MJ X MJ 10" MFG BRAND/MDL NO:	3	EA	\$ 1,935.00	\$ 5,805.00	\$ 1,832.00	\$ 5,496.00	\$ 2,095.00	\$ 6,285.00	\$ 1,557.78	\$ 4,673.34
230	144900	VALVE, GATE, RESILIENT SEAT, WITH OPERATING NUT AND NON RISING STAINLESS STEEL STEM. BONNET AND BODY TO BE EPOXY COATED INSIDE AND OUTSIDE. MJ X MJ 12" MFG BRAND/MDL NO:	1	EA	\$ 2,448.00	\$ 2,448.00	\$ 2,000.00	\$ 2,000.00	\$ 2,649.00	\$ 2,649.00	\$ 1,971.06	\$ 1,971.06
231	NEW ITEM	VALVE, GATE, RESILIENT SEAT, WITH OPERATING NUT AND NON RISING STAINLESS STEEL STEM. BONNET AND BODY TO BE EPOXY COATED INSIDE AND OUTSIDE. MJ X MJ 16" MFG BRAND/MDL NO:	1	EA	\$ 8,206.00	\$ 8,206.00	\$ 2,025.00	\$ 2,025.00	\$ 8,881.00	\$ 8,881.00	\$ 7,235.34	\$ 7,235.34
232	NEW ITEM	VALVE, GATE, OS&Y, FL X FL 4" MFG BRAND/MDL NO:	1	EA	\$ 223.00	\$ 223.00	\$ 658.00	\$ 658.00	\$ 695.00	\$ 695.00	\$ 641.34	\$ 641.34
233	NEW ITEM	VALVE, GATE, OS&Y, FL X FL 6" MFG BRAND/MDL NO:	1	EA	\$ 350.00	\$ 350.00	\$ 986.00	\$ 986.00	\$ 1,050.00	\$ 1,050.00	\$ 832.86	\$ 832.86
234	NEW ITEM	VALVE, GATE, OS&Y, FL X FL 8" MFG BRAND/MDL NO:	1	EA	\$ 565.00	\$ 565.00	\$ 1,616.00	\$ 1,616.00	\$ 1,795.00	\$ 1,795.00	\$ 1,272.18	\$ 1,272.18
235	144910	VALVE, BUTTERFLY, FLANGE 4" MFG BRAND/MDL NO:	2	EA	\$ 905.00	\$ 1,810.00	\$ 1,000.00	\$ 2,000.00	\$ 990.00	\$ 1,980.00	\$ 732.60	\$ 1,465.20
236	144970	VALVE, BUTTERFLY, FLANGE 6" MFG BRAND/MDL NO:	1	EA	\$ 860.00	\$ 860.00	\$ 900.00	\$ 900.00	\$ 1,025.00	\$ 1,025.00	\$ 752.40	\$ 752.40
237	144980	VALVE, BUTTERFLY, FLANGE 8" MFG BRAND/MDL NO:	1	EA	\$ 1,100.00	\$ 1,100.00	\$ 1,287.00	\$ 1,287.00	\$ 1,310.00	\$ 1,310.00	\$ 963.60	\$ 963.60
238	144985	VALVE, BUTTERFLY, FLANGE 10" MFG BRAND/MDL NO:	1	EA	\$ 1,520.00	\$ 1,520.00	\$ 1,600.00	\$ 1,600.00	\$ 1,875.00	\$ 1,875.00	\$ 1,329.90	\$ 1,329.90
239	144990	VALVE, BUTTERFLY, FLANGE 12" MFG BRAND/MDL NO:	3	EA	\$ 1,820.00	\$ 5,460.00	\$ 1,500.00	\$ 4,500.00	\$ 2,260.00	\$ 6,780.00	\$ 1,590.60	\$ 4,771.80
240	144995	VALVE, BUTTERFLY, FLANGE 16" MFG BRAND/MDL NO:	1	EA	\$ 3,540.00	\$ 3,540.00	\$ 3,773.00	\$ 3,773.00	\$ 4,450.00	\$ 4,450.00	\$ 3,095.40	\$ 3,095.40
241	NEW ITEM	VALVE, BUTTERFLY (UNDERGROUND) RUBBER SEATED. TO BE EPOXY COATED INSIDE AND OUTSIDE. MJ X F 4" MFG BRAND/MDL NO:	1	EA	\$ 905.00	\$ 905.00	\$ 731.40	\$ 731.40	NO BID	NO BID	NO BID	NO BID
242	144920	VALVE, BUTTERFLY (UNDERGROUND) RUBBER SEATED. TO BE EPOXY COATED INSIDE AND OUTSIDE. MJ X F 6" MFG BRAND/MDL NO:	1	EA	\$ 978.00	\$ 978.00	\$ 900.26	\$ 900.26	\$ 1,075.00	\$ 1,075.00	\$ 752.40	\$ 752.40
243	144930	VALVE, BUTTERFLY (UNDERGROUND) RUBBER SEATED. TO BE EPOXY COATED INSIDE AND OUTSIDE. MJ X F 8" MFG BRAND/MDL NO:	2	EA	\$ 1,254.00	\$ 2,508.00	\$ 1,152.96	\$ 2,305.92	\$ 1,370.00	\$ 2,740.00	\$ 963.60	\$ 1,927.20
244	144940	VALVE, BUTTERFLY (UNDERGROUND) RUBBER SEATED. TO BE EPOXY COATED INSIDE AND OUTSIDE. MJ X F 10" MFG BRAND/MDL NO:	1	EA	\$ 1,729.00	\$ 1,729.00	\$ 531.06	\$ 531.06	\$ 1,875.00	\$ 1,875.00	\$ 1,329.90	\$ 1,329.90
245	144950	VALVE, BUTTERFLY (UNDERGROUND) RUBBER SEATED. TO BE EPOXY COATED INSIDE AND OUTSIDE. MJ X F 12" MFG BRAND/MDL NO:	1	EA	\$ 1,910.00	\$ 1,910.00	\$ 1,902.70	\$ 1,902.70	\$ 2,260.00	\$ 2,260.00	\$ 1,590.60	\$ 1,590.60
246	144960	VALVE, BUTTERFLY (UNDERGROUND) RUBBER SEATED. TO BE EPOXY COATED INSIDE AND OUTSIDE. MJ X F 16" MFG BRAND/MDL NO:	1	EA	\$ 3,340.00	\$ 3,340.00	\$ 3,703.64	\$ 3,703.64	\$ 3,840.00	\$ 3,840.00	\$ 3,095.40	\$ 3,095.40
<b>SUB-TOTAL:</b>						\$924,106.34		\$895,892.80		\$ 993,686.00		\$346,071.42
<b>SALES TAX 7.88%:</b>						\$72,819.58		\$70,551.56		\$ 78,252.77		\$27,253.12
<b>TOTAL:</b>						\$996,925.92		\$966,444.36		\$ 1,071,938.77		\$373,324.54
<p><b>***Bold &amp; Italicized values indicate Support of Local Vendor Award***</b></p> <p><b>Please Note: This Cost Abstract is for pricing purposes only. Also, Line items 1-38 pricing subject to change every 90 days</b></p>												

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2022-459**

**RESOLUTION APPROVING AN AGREEMENT WITH INFOSEND INC., BY UTILIZING THE CITY OF OCEANSIDE AGREEMENT, FOR FORMS, PRINTING, AND MAILING SERVICES, FOR A THREE (3) YEAR AGREEMENT WITH FIVE (5) ONE-YEAR EXTENSION OPTIONS, FOR AN ANNUAL ESTIMATED AMOUNT OF \$1,506,642 AND A TOTAL AMOUNT NOT TO EXCEED \$12,051,699 OVER EIGHT (8) YEARS; AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE AGREEMENT**

WHEREAS, the Finance Department, Revenue Collection and Compliance, Accounts Receivable Divisions and Information Technology Department manage and facilitate the creation, printing and mailing of the City's billing and miscellaneous customer forms, and

WHEREAS, on November 27, 2017, by Resolution No. 2017-528, Council approved a two-year Agreement with three one-year extensions for a total five-year amount of \$3,085,717 for the furnishing of forms, printing and mailing services to InfoSend, Inc, and

WHEREAS, the term of the current Agreement between the City of Modesto and InfoSend, Inc., is due to expire December 11, 2022, and

WHEREAS, on April 6, 2022, the City of Oceanside entered into an Agreement with InfoSend, Inc. for a three-year (3) Agreement with five (5) one-year extension options for a total of eight (8) years; with the initial term of the Agreement effective June 1, 2022, through May 31, 2025, and

WHEREAS, InfoSend has effectively met the City's printing and mailings needs by providing consistent satisfactory service and to continue receiving the various services currently being provided by InfoSend, the City will utilize the cooperative Agreement and "access the terms" of the Agreement between the City of Oceanside and InfoSend, Inc., and

WHEREAS, Modesto Municipal Code Section 8-3.203 generally requires all purchases, which meet or exceed \$50,000 for material, equipment, or contractual services to be formally bid; however, exceptions to the formal bidding process are granted in MMC 8-3.204(d) “Where the Purchasing Manager, in his or her discretion, determines that a process other than the formal bid procedure set for in Section 8-3.203 will result in procurement for the City at the lowest possible cost commensurate with the desired quality” and in addition, MMC 8-3.202(d) encourages the Purchasing Manager to join with the State of California and other units of government in cooperative purchasing plans when the best cost savings interest of the City would be served, and

WHEREAS, the annual estimated cost for forms, printing, and mailing services is \$990,619 for an eight-year cost of \$7,924,953 which includes an 8.5% per year Consumer Price Index (CPI) rate increase and the annual estimated postage cost is \$515,843 for an eight-year cost of \$4,126,746 which includes a 7% per year postage rate increase; contracted costs for all components over an eight-year period total \$12,051,699.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves an Agreement with InfoSend Inc., by utilizing the City of Oceanside agreement, for Forms, Printing, and Mailing Services, for a three (3) year Agreement with five (5) one-year extension options, for an annual estimated amount of \$1,506,642 and a total amount not to exceed \$12,051,699 over eight (8) years.

BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to execute the agreement, in a form approved by the City Attorney.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 6th day of December, 2022, by Vice Mayor Wright, who moved its adoption, which motion being duly seconded by Councilmember Williams, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Alvarez, Bavaro, Escutia-Braaton, Ricci, Williams, Wright, Mayor Zwahlen

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST:

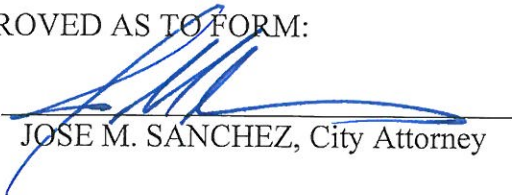


DIANE NAYARES-PEREZ, CMC, City Clerk

(SEAL)

APPROVED AS TO FORM:

BY:

  
JOSE M. SANCHEZ, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2022-460**

**RESOLUTION APPROVING A ONE-TIME PURCHASE USING THE COMPETITIVE BID PROCESS FROM THE NATIONAL ASSOCIATION OF STATE PROCUREMENT OFFICIALS (NASPO) VALUEPOINT FOR EIGHT (8) LIFEPAK15 MONITORS FROM STRYKER MEDICAL, CHICAGO, IL FOR A TOTAL COST NOT TO EXCEED \$353,624; AND AUTHORIZING THE PURCHASING MANAGER, OR HER DESIGNEE, TO ISSUE THE PURCHASE ORDER**

WHEREAS, the Modesto Fire Department (MFD) has utilized the LifePak Monitors and defibrillators since the inception of our Advanced Life Support Paramedic Program in the early 1990's, starting with the LifePak12 model and upgrading to the current LifePak15 models; and

WHEREAS, LifePak15's are utilized by all the ambulance companies in our area and on all Advanced Life Support (ALS) fire engines in the City of Modesto, allowing for equipment interchangeability when MFD operates in conjunction with other local ambulance providers or other mutual-aid agencies; and

WHEREAS, Stryker is the original equipment manufacturer and distributor of the LifePak15 monitors as they recently purchased Physio-Control and now serves as the sole source distributor; and

WHEREAS, on October 26, 2021, by Resolution 2021-416, Council approved the purchase of six (6) LifePak15 monitors from Stryker Medical, Chicago, IL, and with the adoption of additional contracted fire services, MFD's jurisdictional boundary has broadened, creating an increased level of ALS calls. Subsequently, additional equipment is in demand for our first responders to provide vital care to the community, and the proposed eight (8) LifePak15s will ensure we meet these expectations; and

WHEREAS, on November 29, 2016, Oklahoma Office of Management Enterprises Services (OMES) issued invitation bid SW17300 by posting on the OMES Central Purchasing Website for AED UNITS AND ACCESSORIES. Five (5) bids were received with four (4) vendors awarded, and Stryker Medical was awarded a contract based on their qualifying submission: and

WHEREAS, it has been determined the OMES Master Agreement OK-SW-300 with Stryker Medical meets the need of the city based on NASPO ValuPoint competitive bid process. The contract between Oklahoma Office of Management and Enterprises Services and Stryker Medical expires April 4, 2023; and

WHEREAS, the purchase includes annual preventative maintenance services (including inspection and unlimited repairs for a period of four (4) years) and a one-year warranty. This purchase includes a credit in the amount of \$30,000 for trade-in of existing LifePak12B inventory; and

WHEREAS, Modesto Municipal Code Section 8-3.203 generally requires all purchases, which meet or exceed \$50,000 for material, equipment or contractual services to be formally bid. However, exceptions to the formal bidding process are granted in MMC 8-3.204(d) “Where the Purchasing Manager, in his or her discretion, determines that a process other than the formal bid procedure set for in Section 8-3.203 will result in procurement for the City at the lowest possible cost commensurate with the desired quality” and

WHEREAS, in addition, MMC 8-3.202(h) encourages the Purchasing Manager to join with the State of California and other units of government in cooperative purchasing

plans when the best cost savings interest of the City would be served. Both requirements were met based on the competitive bidding process selected by NASPO ValuePoint.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves a One-Time Purchase using the Competitive Bid Process from The National Association of State Procurement Officials (NASPO) ValuePoint for eight (8) LifePak15 Monitors from Stryker Medical, Chicago, IL for a total cost not to exceed \$353,624.

BE IT FURTHER RESOLVED, that the Purchasing Manager, or his designee, is hereby authorized to issue the Purchase Order.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 6th day of December, 2022, by Vice Mayor Wright, who moved its adoption, which motion being duly seconded by Councilmember Williams, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Alvarez, Bavaro, Escutia-Braaton, Ricci, Williams, Wright, Mayor Zwahlen

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST:



DIANE NAYARES-PEREZ, CMC,  
City Clerk

(SEAL)

APPROVED AS TO FORM:

BY:



JOSE M. SANCHEZ, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2022-461**

**RESOLUTION APPROVING AN AGREEMENT WITH SLOAN SAKAI YEUNG & WONG, LLP, EMERYVILLE, CA TO CONDUCT A COMPENSATION STUDY IN AN AMOUNT NOT TO EXCEED \$54,000 FOR A TERM OF DECEMBER 6, 2022 TO DECEMBER 6, 2023 AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE AGREEMENT**

WHEREAS, it is the best practice of public sector organizations, like the City of Modesto, to periodically assess its compensation structure to ensure it can successfully compete for employee talent in the job market; and

WHEREAS, a periodic compensation study aids in establishing market positions to attract higher-quality applicants. Agencies also periodically perform compensation studies to assess internal structure and alignment between positions of similar scope and hierarchy within the organization for consistency and fairness; and

WHEREAS, overall, the process helps the City achieve human resources objectives such as employee recruitment, retention, and pay satisfaction. Studies can focus on a specific department, labor group, or be organization-wide; and

WHEREAS, a Request for Proposals (RFP) to conduct the compensation study was executed on Friday, September 30, 2022. Staff emailed the RFP to 18 firms with a due date of October 21, 2022, allowing three weeks to respond. Four of the firms responded and the proposals were reviewed by the Human Resources team and included representatives from most of the affected associations, MCEA, MCMA, and MPOA; and

WHEREAS, an Award of Proposal and Agreement for a Compensation Study for City positions using Sloan Sakai Yeung & Wong, LLP, Emeryville, CA conforms to the Modesto Municipal Code because the City complied with the bid procedures and Sloan

Sakai Yeung & Wong, LLP, was determined to be the top-ranking proposal based on the criteria of expertise/staff qualifications, timeline, cost, and overall proposal.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves an agreement with Sloan Sakai Yeung & Wong, LLP, Emeryville, CA to conduct a compensation study for term of December 6, 2022 to December 6, 2023, in an amount not to exceed \$54,000.

BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to execute the contract in a form approved by the City Attorney.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 6th day of December, 2022, by Vice Mayor Wright, who moved its adoption, which motion being duly seconded by Councilmember Williams, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Alvarez, Bavaro, Escutia-Braaton, Ricci, Williams, Wright, Mayor Zwahlen

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST:   
DIANE NAYARES-PEREZ, CMC,  
City Clerk

(SEAL)

APPROVED AS TO FORM:

BY:   
JOSE M. SANCHEZ, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2022-462**

**RESOLUTION APPROVING AN AMENDMENT TO LEASE AGREEMENT  
FOR THE MODULAR BUILDING AT DRYDEN GOLF COURSE AND  
APPROVING THE INCREASE OF A PURCHASE ORDER WITH WILLIAMS  
SCOTSMAN, INC., FRESNO, CALIFORNIA, FOR A REVISED TOTAL  
AMOUNT NOT TO EXCEED \$95,000; AND AUTHORIZING THE CITY  
MANAGER OR HIS DESIGNEE TO EXECUTE THE AMENDMENT**

WHEREAS, the City owns real property located at 920 Sunset Avenue (APN 037-036-003), and known as the Dryden Golf Course; and

WHEREAS, on August 4, 2020, the Dryden Golf Park Clubhouse was heavily damaged by a fire; and

WHEREAS, the City's property insurance company, Alliant, engaged Contractor to lease a modular building to serve as the Golf Course's temporary Clubhouse; and

WHEREAS, the City's property insurance company, Alliant, transferred ownership of the lease to the City because their insurance services were no longer needed but the modular building needed to remain until the Clubhouse was rebuilt; and

WHEREAS, the City assumed ownership of the lease in March 2021 to prevent an interruption in golf services and a loss in golf green fee revenue; and

WHEREAS, the lease agreement lapsed in March 2022, and the City has been on a month-to-month lease; and

WHEREAS, the City is nearing fifty thousand dollars in payments to the Contractor; and

WHEREAS, staff anticipates the Clubhouse renovation to be completed by late 2024 and recommends the lease agreement be extended to December 28, 2024; and

WHEREAS, the monthly cost is estimated at \$1,776 per month and staff recommends the existing Purchase Order to be increased by \$45,362 to a revised total not to exceed \$95,000; and

WHEREAS, Modesto Municipal Code Section (MMC) 8-3.204 generally requires all purchases, in excess of fifty thousand dollars (\$50,000) to follow formal bid procedures. However, MMC 8-3.204(d) provides that a purchase may be exempted from the City's formal bidding requirement where the Purchasing Manager, in his or her discretion, determines that a process other than the formal bid procedure set forth in Section 8-3.203 will result in procurement for the City at the lowest possible cost commensurate with the desired quality; and

WHEREAS, Contractor qualifies for exemption from the formal bidding procedure in accordance with MMC 8-3.204(d) because a change in vendor would incur removal and installation fees as well as a possible loss in green fee revenue while the building is being replaced.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves an Amendment to Lease Agreement for the Modular Building at Dryden Golf Course and approves the increase of a Purchase Order with Williams Scotsman, Inc., Fresno, California, for a revised total not to exceed \$95,000.

BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to execute the Amendment to Lease Agreement in a form approved by the City Attorney.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 6th day of December, 2022, by Vice Mayor Wright, who moved its adoption, which motion being duly seconded by Councilmember Williams, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Alvarez, Bavaro, Escutia-Braaton, Ricci, Williams, Wright, Mayor Zwahlen

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST:

  
DIANE NAYARES-PEREZ, CMC,  
City Clerk

(SEAL)

APPROVED AS TO FORM:

BY:

  
JOSE M. SANCHEZ, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2022-463**

**RESOLUTION APPROVING THE FIRST AMENDMENT TO THE CITY OF  
MODESTO PANDEMIC RECOVERY STRATEGY – MODESTO FORWARD  
GRANT AGREEMENT WITH THE MODESTO CONVENTION AND VISITORS  
BUREAU, INC, FOR THE YEAR 2 ALLOCATION OF \$250,000 IN AMERICAN  
RESCUE PLAN FUNDING, AND AUTHORIZING THE CITY MANAGER, OR  
HIS DESIGNEE, TO EXECUTE THE FIRST AMENDMENT AND CARRY OUT  
THE NECESSARY STEPS TO IMPLEMENT THE SPENDING PLAN FOR THE  
SECOND ALLOCATION**

WHEREAS, in April 2021, President Biden signed into law the American Rescue Plan Act (ARPA), a \$1.9 trillion emergency relief measure intended to provide relieve from the impact of COVID-19; and

WHEREAS, the legislation made a historic investment into local governments, include \$45,894,056 to the City of Modesto to address the local impact of COVID-19; and

WHEREAS, by Resolution No. 2021-194, Council approved the Pandemic Recovery Strategy – Modesto Forward (Modesto Forward), a comprehensive spending plan designed to support the local recovery from the pandemic; and

WHEREAS, the spending plan included \$7,105,500 for Economic Vitality initiatives, with \$250,000 allocated to the Modesto Convention and Visitors Bureau (CVB) in the City’s Year 1 and Year 2’s spending plan; and

WHEREAS, by Resolution No. 2022-104, Council approved the Pandemic Recovery Strategy – Modesto Forward – Grant Agreement with the CVB for \$250,000 in Year 1 funding to create sustainable tourism and economic recovery programs, and

WHEREAS, by Resolution No. 2022-237, Council approved the Year 2 spending plan for the second tranche of ARPA funding, including the second allocation of \$250,000 to the CVB; and

WHEREAS, all funds must be obligated by December 31, 2024 and expended by December 31, 2026.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the First Amendment to the City of Modesto Pandemic Recovery Strategy – Modesto Forward – Grant Agreement between the City of Modesto and Modesto Convention and Visitors Bureau for the Year 2 allocation of \$250,000 in American Rescue Plan Act funding.

BE IT FURTHER RESOLVED, that the City Manager, or his designee, is authorized to execute the First Amendment, approved as to form by the City Attorney, and carry out the necessary steps to implement the spending plan for the second allocation.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 6th day of December, 2022, by Vice Mayor Wright, who moved its adoption, which motion being duly seconded by Councilmember Williams, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Alvarez, Bavaro, Escutia-Braaton, Ricci, Williams, Wright, Mayor Zwahlen

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST:   
DIANE NAYARES-PEREZ, CMC,  
City Clerk

(SEAL)

APPROVED AS TO FORM:

BY:   
JOSE M. SANCHEZ, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2022-464**

**RESOLUTION APPROVING THE FOURTH AMENDMENT TO AGREEMENT WITH THE BASEBALL CLUB OF MODESTO, LLC, AS SUCCESSOR IN INTEREST TO HWS BASEBALL IV, LLC, TO REVISE THE EXPIRATION DATE IN THE ACCELERATED TERMINATION PROVISION FROM DECEMBER 31, 2022 TO DECEMBER 31, 2023, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE FOURTH AMENDMENT TO AGREEMENT**

WHEREAS, the City is the owner of the property, stadium, and parking facilities that comprise John Thurman Field; and

WHEREAS, by Resolution No. 2016-503, Council approved a ten (10) year Agreement (“Agreement”) with HWS Baseball IV, LLC, aka The Modesto Nuts Baseball Club, (“Club”) for the use, operation, and management of John Thurman Field; and

WHEREAS, by Resolution No. 2018-451, Council approved the First Amendment to the Agreement to advance one (1) annual deposit to help fund the replacement of a video board and stadium seating as well as various minor changes; and

WHEREAS, by Resolution No. 2020-007, Council approved the Second Amendment to the Agreement with The Baseball Club of Modesto, LLC, as the successor in interest to HWS Baseball IV, LLC, to extend the term through December 31, 2027, waive the 2020 annual license payment, and defer the fiscal year 2020-2021 Capital Improvement Project deposit to Fiscal Year 2025-2026; and

WHEREAS, by Resolution No. 2022-497, Council approved the Third Amendment to the Agreement with the Baseball Club of Modesto, as successor in interest to HWS Baseball IV, LLC, to revise the expiration date in the accelerated termination provision from December 31, 2021 to December 31, 2022; and

WHEREAS, the City and the Club desire to amend the Agreement to revise the expiration date in the accelerated termination provision from December 31, 2022 to December 31, 2023.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the Fourth Amendment to the Agreement with the Baseball Club of Modesto, LLC, as successor in interest to HWS Baseball IV, LLC, to revise the expiration date in the accelerated termination provision from December 31, 2022 to December 31, 2023.

BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to execute the Fourth Amendment, in a form approved by the City Attorney.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 6th day of December, 2022, by Vice Mayor Wright, who moved its adoption, which motion being duly seconded by Councilmember Williams, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Alvarez, Bavaro, Escutia-Braaton, Ricci, Williams, Wright, Mayor Zwahlen

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST.



DIANE NAYARES-PEREZ, CMC,  
City Clerk

(SEAL)

APPROVED AS TO FORM:

BY:



JOSE M. SANCHEZ, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2022-465**

**RESOLUTION APPROVING THE PURCHASE AND SALE AGREEMENT FOR CERTAIN REAL PROPERTY LOCATED AT APPROXIMATELY 1300 SCENIC DRIVE, STANISLAUS COUNTY ASSESSOR PARCEL NUMBER 034-018-014, FOR \$795,000, PLUS \$20,000 IN ANTICIPATED CLOSING COSTS, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE ANY DOCUMENTS NECESSARY TO CARRY OUT THE PURPOSE OF THIS RESOLUTION**

WHEREAS, the Pamela Monterosso Trailhead serves as a primary access point for the Peggy Mensinger Trail that runs along Dry Creek; and

WHEREAS, the parking lot serving the trailhead has only eight (8) designated parking spaces which are insufficient to meet the parking needs for those visiting and using the trail; and

WHEREAS, by Resolution No. 2021-067, Council approved a lease for the City's use of forty (40) parking spaces from the adjacent office complex owned by Thousand Oaks Executive Center, LLC ("Property Owner"); and

WHEREAS, the lease is set to expire on December 31, 2022; and

WHEREAS, Property Owner expressed interest in selling Stanislaus County Assessor Parcel No. 034-018-014 to the City, which includes the parking lot adjacent to the trailhead to the City; and

WHEREAS, the City desires to purchase the property which includes a parking lot, lighting, landscaping, drainage facilities, and driveway for the benefit of the community; and

WHEREAS, an appraisal of the property was completed by Valbridge Property Advisors; and

WHEREAS, the market value of the property was appraised at \$840,000; and

WHEREAS, City and Property Owner agreed on a purchase price of \$795,000;  
and

WHEREAS, it is anticipated that the closing costs for the sale of the property will  
be \$20,000; and

WHEREAS, funding for the sale is budgeted in Capital Improvement Project No.  
101393 (Monterosso Trailhead Parking) and Air Quality and Park Capital Facilities Fees;  
and

WHEREAS, in addition the execution of the Purchase and Sale Agreement, the  
parties agree to execute a reciprocal access easement or similar binding agreement for use  
of the shared driveway, and a maintenance agreement governing the maintenance of the  
property.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto  
that it hereby approves the Purchase and Sale Agreement between the City of Modesto  
and Thousand Oaks Executive Center, LLC, for certain real property located at  
approximately 1300 Scenic Drive, Stanislaus County Assessor Parcel Number 034-018-  
014, for \$795,000, plus \$20,000 in anticipated closing costs

BE IT FURTHER RESOLVED, that the City Manager, or his designee, is  
authorized to execute the Purchase and Sale Agreement and all required documents,  
approved as to form, by the City Attorney.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 6th day of December, 2022, by Vice Mayor Wright, who moved its adoption, which motion being duly seconded by Councilmember Williams, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Alvarez, Bavaro, Escutia-Braaton, Ricci, Williams, Wright, Mayor Zwahlen

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST:



DIANE NAYARES-PEREZ, CMC,  
City Clerk

(SEAL)

APPROVED AS TO FORM:

BY:

  
JOSE M. SANCHEZ, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2022-466**

**RESOLUTION APPROVING AN AGREEMENT WITH HDR ENGINEERING, INC., NORTHERN CALIFORNIA AREA, TO CONDUCT A FEASIBILITY STUDY FOR THE CITY'S COMPOST FACILITY AT 7001 JENNINGS ROAD FOR A TOTAL AMOUNT NOT TO EXCEED \$97,055, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE AGREEMENT**

WHEREAS, in September 2016, Governor Brown signed the Short-Lived Climate Pollution Reduction Act Senate Bill (SB 1383) into law, establishing emission reduction targets statewide to reduce organic waste to landfill by seventy-five percent (75%) and recovering twenty percent (20%) of edible food waste for human consumption by 2025, and

WHEREAS, the Compost Facility's primary and state mandated purpose is to process the City's diverted yard waste, paper waste and food waste materials into a reusable soil amendment product (compost), thus keeping these materials from entering the landfill and lowering the City's disposal rate, and

WHEREAS, on June 14, 2022, by Resolution No. 2022-276, Council approved new solid waste rates. The new rates took effect on July 1, 2022. A compost facility improvement fee was added to both residential rates and commercial rates. These fees will be solely utilized for facility improvements, and

WHEREAS, HDR Engineering will provide guidance to the Modesto City Council and Public Works staff to make informed decisions on the future of the City's composting operations and compliance with SB1383, and

WHEREAS, Modesto Municipal Code Section 8-3.203 generally requires all purchases, which meet or exceed \$50,000 for material, equipment, or contractual services to follow formal bid procedures. However, exceptions to the formal bidding process are

granted in MMC 8-3.204(d) “Where the Purchasing Manager, in his or her discretion, determines that a process other than the formal bid procedure set for in Section 8-3.203 will result in procurement for the City at the lowest possible cost commensurate with the desired quality.” Staff solicited quotes from specialized vendors. Two of them denied submitting a proposal, and the other two decided to work together to submit a proposal. This type of work is very specialized since it requires extensive knowledge in compost facilities, permitting, and California laws and regulations.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves an Agreement with HDR Engineering, Inc., Northern California Area, to conduct a Feasibility Study for the City’s Compost Facility at 7001 Jennings Road for a total amount not to exceed \$97,055.

BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to execute the Agreement, in a form approved by the City Attorney.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 6th day of December, 2022, by Vice Mayor Wright, who moved its adoption, which motion being duly seconded by Councilmember Williams, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Alvarez, Bavaro, Escutia-Braaton, Ricci, Williams, Wright, Mayor Zwahlen

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST:   
DIANE NAYARES-PEREZ, CMC,  
City Clerk

(SEAL)

APPROVED AS TO FORM:

BY:   
JOSE M. SANCHEZ, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2022-467**

**RESOLUTION APPROVING THE PLANS AND SPECIFICATIONS FOR THE  
REBID UPGRADE TRAFFIC SIGNALS - 2017 PROJECT, ACCEPTING THE  
BID, AND AWARDING A CONTRACT TO ST. FRANCIS ELECTRIC, LLC OF  
SAN LEANDRO, CA, IN THE AMOUNT OF \$850,515, PLUS \$85,052 FOR  
CONTINGENCY (IF NEEDED), FOR A TOTAL AMOUNT NOT TO EXCEED  
\$935,567, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO  
EXECUTE THE AGREEMENT**

WHEREAS, plans and specifications have been prepared for the Rebid Upgrade Traffic Signals - 2017 project, and City staff recommends approval by the City Council; and

WHEREAS, the bids received for the Rebid Upgrade Traffic Signals - 2017 project, were publicly opened at 11:00 a.m. on October 4, 2022, and later tabulated by the Director of Public Works for the consideration of Council; and

WHEREAS, the Director of Public Works has recommended that the bid of \$850,515 received from St. Francis Electric, LLC of San Leandro, CA be accepted as the lowest responsible and responsive bid and that the contract be awarded to St. Francis Electric, LLC; and

WHEREAS, Modesto Municipal Code Section 8-3.203 generally requires all purchases, which meet or exceed \$50,000 for material, equipment, or contractual services, to follow the formal bid procedures; and

WHEREAS, an award of \$850,515 and agreement for construction for Public Works Department to use St. Francis Electric, LLC of San Leandro, CA, conforms to the Modesto Municipal Code because the City complied with the formal bid procedures and St. Francis Electric, LLC of San Leandro, CA, was the lowest responsive bidder; and

WHEREAS, the City's "Change Order Approval Policy" enacted by Council Resolution No. 1994-443 on July 19, 1994, and updated by Resolution No. 2019-326 on July 9, 2019, established a contract change order budget of 10% for construction contracts at least \$250,000 but less than \$1,000,000.

NOW, THEREFORE BE IT RESOLVED, by the Council of the City of Modesto that it hereby approves the plans and specifications for the Rebid Upgrade Traffic Signals - 2017 project, accepts the bid, and awards a contract to St. Francis Electric, LLC of San Leandro, CA, in the amount of \$850,515, plus \$85,052 for contingency (if needed), for a total amount not to exceed \$935,567, and awards St. Francis Electric, LLC the contract for the Rebid Upgrade Traffic Signals - 2017 project.

BE IT FURTHER RESOLVED, that the City Manager, or his designee, is hereby authorized to execute the contract, in a form approved by the City Attorney.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 6th day of December, 2022, by Vice Mayor Wright, who moved its adoption, which motion being duly seconded by Councilmember Williams, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Alvarez, Bavaro, Escutia-Braaton, Ricci, Williams, Wright, Mayor Zwahlen

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST:



DIANE NAYARES-PEREZ, CMC,  
City Clerk

(SEAL)

APPROVED AS TO FORM:

BY:



JOSE M. SANCHEZ, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2022-468**

**RESOLUTION ACCEPTING THE UPGRADE ADVANCED TRAFFIC  
MANAGEMENT SYSTEM 2017 PROJECT AS COMPLETE**

WHEREAS, in May of 2014, the City of Modesto applied for Congestion Mitigation and Air Quality (CMAQ) funds to upgrade the City of Modesto's Advanced Traffic Management System (ATMS); and

WHEREAS, on September 4, 2018, the City approved a Measure L project for "Traffic Signal Analysis Study System Wide" which was to complete the "Modesto Traffic Signal System Master Plan" which details a roadmap for the City over the next 12 years to improve its existing traffic signal system infrastructure; and

WHEREAS, on January 28, 2020, by Resolution 2020-056, Council approved the Modesto Traffic Signal System Master Plan and staff coordinated with Caltrans to adjust the scope of work for the project to be in line with elements of the master plan; and

WHEREAS, one of the Intelligent Transportation System (ITS) elements the report recommended was the move to IP addressable video detection cameras; and

WHEREAS, this project procured 240 cameras at 60 signalized intersections throughout the City while City staff provided the installation; and

WHEREAS, this project also procured a network switch for the Traffic Operations Center to allow for communication via internet connection.

NOW, THEREFORE BE IT RESOLVED, by the Council of the City of Modesto that it hereby accepts the Upgrade Advanced Traffic Management System 2017 Project as complete.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 6th day of December, 2022, by Vice Mayor Wright, who moved its adoption, which motion being duly seconded by Councilmember Williams, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Alvarez, Bavaro, Escutia-Braaton, Ricci, Williams, Wright, Mayor Zwahlen

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST:

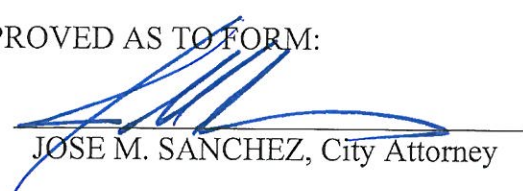


DIANE NAYARES-PEREZ, CMC,  
City Clerk

(SEAL)

APPROVED AS TO FORM:

BY:



JOSE M. SANCHEZ, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2022-469**

**RESOLUTION ACCEPTING THE MODESTO MODULAR BUILDING  
RELOCATION PROJECT AS COMPLETE, AUTHORIZING ALL NECESSARY  
STEPS TO FILE WITH THE COUNTY RECORDER, RELEASING  
SECURITIES, AND RELEASING PAYMENTS TOTALING \$484,537 TO  
HARRIS BUILDERS, INC., HILMAR, CA**

WHEREAS, on January 26, 2016 the City of Modesto entered into a Lease Agreement with the Boys & Girls Clubs of Stanislaus County, a California Non-Profit Benefit Corporation, to allow placement and use of a modular building at Dr. Martin Luther King Jr. Park, formerly known as Mellis Park, located at 601 North Martin Luther King Drive, Modesto, CA; and

WHEREAS, on December 31, 2020, the five (5) year term of use expired at Dr. Martin Luther King Jr. Park; and

WHEREAS, on December 8, 2021, the City was awarded Proposition 68 funding in the amount of \$8,500,000 to renovate the entire park; and

WHEREAS, the modular building was originally located where the splash pad amenity was sited to be installed and therefore required to be relocated; and

WHEREAS, the new location is the vacant park land south of Dryden Park Golf Course parking lot; and

WHEREAS, the City of Modesto assisted the Boys & Girls Clubs of Stanislaus County with the design and construction for the Modular Building move and funding these items with Community Development Block Grant (CDBG) funds through the Housing and Urban Development (HUD) Annual Action Plan; and

WHEREAS, on March 23, 2021, by Purchase Order No. 198908, the City awarded the contract to complete the professional design services for the Modesto

Modular Building Relocation to O'Dell Engineering, Inc.; and

WHEREAS, the construction documentation and professional design was completed in fall 2021; and

WHEREAS, the project was advertised for bids on November 16, 2021; and

WHEREAS, bids were publicly opened on December 14, 2021, pursuant to Modesto Municipal Code Section 8-3.403 and City Charter Section 1307; and

WHEREAS, Harris Builders, Inc., of Hilmar, CA, was the sole bidder; and

WHEREAS, on February 08, 2022, by Resolution No. 2022-094, Council awarded a contract to Harris Builders, Inc., of Hilmar, CA for the construction of the Modesto Modular Building Relocation project for the amount of \$458,896; and

WHEREAS, the contractor received the Notice to Proceed with a start date of March 14, 2022. All contract work was completed on April 26, 2022; and

WHEREAS, the total project costs were \$629,394 which included design, construction, and construction administration costs. The total project amount originally budgeted was \$723,964 which included \$513,964 for the construction contract and contingency with Harris Builder, Inc., of Hilmar, CA; and

WHEREAS, the City's "Change Order Approval Policy" enacted by Council Resolution No. 94-443 on July 19, 1994, and updated by Resolution No. 2019-326 on July 9, 2019, states that a contract of less than \$1,000,000 allows Directors Authority not to exceed \$10% of the contract amount, and by Resolution No. 22-094 on February 8, 2022, authorization was given to the Director of Utilities to approve change orders up to the cumulative amount of \$55,068 (12%) of the original contract price; and

WHEREAS, there were ten change orders resulting in an overall increase of \$25,641; and

WHEREAS, by accepting this project as complete, the City officially accepts the improvements made and authorizes the Notice of Completion to be filed.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Council awarded a contract to Harris Builders, Inc., of Hilmar, CA, for the construction of the Modesto Modular Building Relocation project in the amount of \$484,536, is hereby accepted as complete from contractor, Harris Builders, Inc., of Hilmar, CA., and that the City Clerk is authorized to complete all necessary steps to file the appropriate notices and documents with the County Recorder, release securities, and authorize payments totaling \$484,537.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 6th day of December, 2022, by Vice Mayor Wright, who moved its adoption, which motion being duly seconded by Councilmember Williams, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Alvarez, Bavaro, Escutia-Braaton, Ricci, Williams, Wright, Mayor Zwahlen

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST:   
DIANE NAYARES-PEREZ, CMC,  
City Clerk

(SEAL)

APPROVED AS TO FORM:

BY:   
JOSE M. SANCHEZ, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2022-470**

**RESOLUTION APPROVING AN AGREEMENT WITH HSQ TECHNOLOGY, HAYWARD, CA, FOR THE PROCUREMENT OF PARTS, SERVICE, LICENSES AND SUPPORT FOR TWO YEARS, WITH THREE (3) ONE-YEAR EXTENSION OPTIONS, FOR AN ANNUAL ESTIMATED AMOUNT OF \$145,000 AND A TOTAL NOT TO EXCEED \$725,000 OVER FIVE YEARS, AND AUTHORIZING THE DIRECTOR OF FINANCE, OR HER DESIGNEE, THE ABILITY TO ADD PARTS BASED ON THE DEPARTMENT'S NEEDS, ENSURING THE TOTAL AMOUNT DOES NOT EXCEED THE AUTHORIZED TOTAL AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE AGREEMENT**

WHEREAS, the Wastewater and Water Divisions utilize HSQ Technology (HSQ) Remote Terminal Units (RTU's) to transmit and receive operational data from over 200 remotely located facilities such as wells, storage tanks, sewer lift stations, storm stations; and the Sutter, Jennings and Tertiary Treatment Facilities; as part of the HSQ Miser and Supervisor Control and Data Acquisition (SCADA) System, and

WHEREAS, brands other than HSQ RTU's are not compatible with the HSQ SCADA System, and

WHEREAS, on January 16, 2018, by Resolution No. 2018-08, Council approved the sole source Agreement with HSQ Technology, Hayward, CA, for remote terminal units and all associated circuit boards and parts for the miser supervisor control and data acquisition system, for a two-year Agreement, with three (3) one-year extension options at the sole discretion of the City, for an estimated annual cost not to exceed \$60,000 and for a total cost not to exceed \$300,000 over five years, and authorizing the Purchasing Manager, or her designee, to issue the Purchasing Agreement, and

WHEREAS, the current Agreement number 132462 is set to expire January 15, 2023, and

WHEREAS, due to the age of the current HSQ system, Staff is in the process of upgrading the City's SCADA equipment. Until the City can replace the HSQ SCADA System, staff will need to keep the system functioning properly to avoid catastrophic failure of the water and wastewater systems, and

WHEREAS, Staff has determined that the new estimated annual amount of \$145,000 will ensure that both the Water and Wastewater division will have funds available to keep the system functioning properly to avoid catastrophic failure of the water and wastewater systems. Once the new SCADA System is installed and operating, this Agreement will not be renewed or extended, and

WHEREAS, Modesto Municipal Code Section 8-3.203 generally requires all purchases, which meet or exceed \$50,000 for material, equipment or contractual services to be formally bid. However, MMC 8-3.204(b) provides that a purchase may be exempted from the City's formal bidding requirements where the Purchasing Agency's requirements can be met solely by a single article or process. Here, brands other than HSQ RTU's are not compatible with the City's HSQ SCADA System.

WHEREAS, in addition, the procurement of the RTU's, parts, and service from HSQ Technology should be exempt from the formal bidding procedure in accordance with Modesto Municipal Code 8-3.204(b) because HSQ Technology is the original equipment manufacturer, and

WHEREAS, this purchase qualifies for exemption from the formal bidding procedures.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves an Agreement with HSQ Technology, Hayward, CA, for the

procurement of parts, service, licenses and support for the Miser and Supervisor Control and Data Acquisition System, for two years, with three (3) one-year extension options, for an annual estimated amount of \$145,000 and a total not to exceed \$725,000 over five years, and authorizing the Director of Finance, or her designee, the ability to add parts based on the department's needs, ensuring the total amount does not exceed the authorized total.

BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to execute the agreement, in a form approved by the City Attorney.


The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 6th day of December, 2022, by Vice Mayor Wright, who moved its adoption, which motion being duly seconded by Councilmember Williams, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Alvarez, Bavaro, Escutia-Braaton, Ricci, Williams, Wright, Mayor Zwahlen

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST:



DIANE NAYARES-PEREZ, CMC,  
City Clerk

(SEAL)

APPROVED AS TO FORM:

BY:



JOSE M. SANCHEZ, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2022-471**

**RESOLUTION UPDATING THE SCHEDULE OF CASH SECURITY DEPOSITS TO BE CHARGED TO RESIDENTS AND BUSINESSES FOR SELF-HAUL OF SOLID WASTE IN THE CITY OF MODESTO, ESTABLISHING AN ANNUAL 9.9% FRANCHISE FEE IN ACCORDANCE WITH ASSEMBLY BILL 939, AND RESCINDING RESOLUTION NO. 98-113**

WHEREAS, on February 24, 1998, by Resolution 1998-113 Council approved the establishing of a schedule of cash security deposits to be charged to residents and businesses for self-haul of solid waste in the City of Modesto; and

WHEREAS, pursuant to Section 5-5.130 of the Modesto Municipal Code cash security deposit and fees associated with AB939 for the removal of solid waste can be deposited with the City in an amount set from time to time by resolution of the City Council; and

WHEREAS, the updated schedule would set the deposit for residential self-haul to be 60 months multiplied by the current maximum monthly rate at the time of approval and set the deposit for commercial self-haul to be based deposit times total number of cubic yards in bin(s) times the number of collections per week; and

WHEREAS, the updated schedule will also establish an annual Assembly Bill 939 fee of 9.9% to both residential and commercial self-haulers. Funds will be distributed to both the General and Street Funds and will require a renewal of the self-haul program every three years.

NOW THEREFORE BE IT RESOLVED, the City Council of the City of Modesto hereby approves the establishment of a schedule of cash security deposits to be charge to residents and businesses for self-haul of solid waste in the City of Modesto, a copy of said schedule is **attached** hereto as **Exhibit "A"**.

BE IT FURTHER RESOLVED, the City Council hereby approves the establishment of an annual 9.9% franchise fee in accordance with Assembly Bill 939 to be charge to residents and businesses for self-haul of solid waste in the City of Modesto, a copy of said schedule is **attached** hereto as **Exhibit "A"**.

BE IT FURTHER RESOLVED, that Resolution 1998-113 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 December, 2022, by Councilmember Escutia-Braaton, who moved its adoption, which motion being duly seconded by Mayor Zwahlen, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Alvarez, Bavaro, Escutia-Braaton, Ricci, Williams, Mayor Zwahlen

NOES: Councilmembers: Wright

ABSENT: Councilmembers: None

ATTEST:   
DIANE NAYARES-PEREZ, CMC,  
City Clerk

(SEAL)

APPROVED AS TO FORM:

BY:   
JOSE M. SANCHEZ, City Attorney

**EXHIBIT “A”**

**CASH SECURITY DEPOSITS FOR  
SELF-HAUL RESIDENTS AND BUSINESSES  
CITY OF MODESTO**

Pursuant to the Modesto Municipal Code, Section 5-5.130, any person, other than a collector who has an agreement with the City, who wishes to remove and dispose of waste created or produced on premises they occupy or control must first provide a cash security deposit to the City. Such deposits shall be based on the following criteria:

Applications must be renewed every three (3) years

A security deposit shall be made for each separate residential dwelling, multifamily, or business location owned or controlled by a noncustomer.

For any residential, multifamily, or commercial property that is currently served by an authorized collector the City shall contact the collector and determine the existing service level being provided. Based on the service level, the City shall require a cash security deposit based on the formula noted and defined below.

For any residential, multifamily, or commercial property that is not currently serviced by an authorize collector, the City shall consult with the authorized collector assigned to the service address and determine an appropriate service level. The City shall require a cash security deposit based on the formula noted and defined below.

**DEPOSIT**

**RESIDENTIAL OR COMMERCIAL – CART SERVICE**

- a) For any residential, multifamily, or commercial property that is, or would be served by carts, the cash security deposit shall be equal to:

**60 months x 51.25 (maximum monthly rate)**

**RESIDENTIAL OR COMMERCIAL- BIN SERVICE**

- b) For any multifamily, or commercial property that is, or would be served by bins, the cash security deposit shall be equal to:

**Base deposit x Multiplier= Cash Security Deposit**

- a) Base Deposit: \$5000
- b) Multiplier: Total number of cubic yards in bin(s) times the number of collections per week

**ANNUAL AB 939 FEE**

**RESIDENTIAL OR COMMERCIAL – CART SERVICE**

Those residential, multifamily, or commercial properties participating in the Self-Haul program will be required to pay to the City of Modesto an annual AB939 Fee of 9.9% of the annual garbage rate.

- a) The formula for any residential, multifamily, or commercial property that is, or would be served by carts, the annual AB939 fee will be equal to:

$$\$51.25 \text{ (Maximum Monthly Rate)} \times 12 \text{ months} \times 9.9\%$$

**RESIDENTIAL OR COMMERCIAL- BIN SERVICE**

- b) The formula for any multifamily, or commercial property that is, or would be served by bin, the annual AB939 fee will be equal to:

$$\$64.04 \text{ (Maximum Rate 1 cubic yard)} \times \text{(Number of cubic yards in bin(s))} \\ \times \text{(number of pick-ups per week)} \times (12 \text{ months}) \times 9.9\%$$

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2022-472**

**RESOLUTION AUTHORIZING THE CITY OF MODESTO TO UTILIZE THE SERVICES OF MARK MURPHY ON AN INTERIM BASIS TO FULFILL THE DUTIES OF TRAFFIC ENGINEER FOR A LIMITED DURATION OF UP TO SIX (6) MONTHS OR UNTIL THE RECRUITMENT IS COMPLETED, WHICHEVER IS FIRST; AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO TAKE THE NECESSARY STEPS TO IMPLEMENT THE PROVISIONS OF THE ACTION**

WHEREAS, the City requests authorization to utilize the services of retired annuitant Mark Murphy for a limited duration; and

WHEREAS, changes to the California Public Employee Retirement System (CalPERS), requires that a retiree serve a 180-day waiting period prior to being allowed to work for a CalPERS agency with the following exceptions; and

WHEREAS, the California Public Employees' Retirement System (CalPERS) recognizes that retirees can play an important role in maintaining city operations, particularly in short-term or emergency situations; however, they also specify limitations on a retiree's service when returning to work for a CalPERS agency. Government Code §7522.56 & 21221 (h) provides specific guidance on employing a CalPERS retiree without interruption to retirement benefits or reinstatement from retirement; and

WHEREAS, CalPERS Publication 33 stipulates certain conditions must all be met in order for an appointment to move forward. These conditions are:

- The retiree must wait 180 days after his or her retirement date before he or she can return to work for a CalPERS employer, unless there is a qualifying exception.
- The appointment of a retired annuitant must be for a limited duration for a vacant position.

- The appointment of a particular retired annuitant must only occur once.
- The retired annuitant's salary cannot be less than the minimum or exceed the maximum for the vacant position as listed on the employer's publicly available pay schedule for the position.
- The retired annuitant cannot be paid any other compensation or benefits in addition to the hourly pay rate.
- A maximum of 960 hours can be worked within a fiscal year (July 1 to June 30) and CalPERS does not provide any exception to this limit. Non-paid or volunteer hours can't be used in order to exceed 960 hours in a fiscal year.
- The retiree will not accrue service credit or any additional retirement rights or benefits; and

WHEREAS, the Traffic Engineer is a key leadership position in the Public Works Department, and oversees all Traffic Engineering related activities (plan reviews, permit reviews, construction activities relating to traffic, etc.), the division also directly oversees Traffic Operations and Traffic Electrical maintenance staff; and

WHEREAS, the Traffic Engineering Division has 32 active Capital Improvement Projects (CIP) estimated to be over \$21 million dollars funded by federal, state, and local funds. These projects are in various stages of project development and need to be completed to meet funding deadlines. This division has major projects underway that require supplemental Traffic Engineer services to help traffic engineering design and to complete the designated CIP projects; and

WHEREAS, Mr. Murphy was the Department's former Traffic Engineer, was employed with the City for over 33 years, and provided leadership for the City's Traffic Division's operational and maintenance teams before his retirement.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the rehire of the services of Mark Murphy on an interim basis for a limited duration of up to six (6) months or until the recruitment is completed, whichever is first.

BE IT FURTHER RESOLVED that the City Manager, or his designee, is authorized to take the necessary steps to implement the provisions of this action.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 6th day of December, 2022, by Councilmember Williams, who moved its adoption, which motion being duly seconded by Vice Mayor Wright, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Alvarez, Bavaro, Escutia-Braaton, Ricci, Williams, Wright, Mayor Zwahlen

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST:   
DIANE NAYARES-PEREZ, CMC,  
City Clerk

(SEAL)

APPROVED AS TO FORM:

BY:   
JOSE M. SANCHEZ, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2022-473**

**RESOLUTION CONTINUING TO AUTHORIZE REMOTE  
TELECONFERENCE MEETINGS OF THE CITY OF MODESTO PURSUANT  
TO ASSEMBLY BILL 361**

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

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

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

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

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

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

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

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

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

WHEREAS, on September 28, 2021, the City Council adopted Resolution No. 2021-370 authorizing remote teleconference meetings pursuant to AB361 (Government Code section 54953(e)); and

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

WHEREAS, the City Council has considered the circumstances of the Governor’s state of emergency proclamation pursuant to Government Code section 8625, which remains active; and

WHEREAS, on March 8, 2022, the County of Stanislaus Board of Supervisors terminated the Declaration of a Local Health Emergency that was issued on March 11, 2020; and

WHEREAS, State of California health officials recommend masks to be worn when individuals might be around unvaccinated people, especially while indoors; and

WHEREAS, the City Council, acting for itself and for the benefit of all of the City's commissions, committees, and other bodies (collectively referred to as the "Legislative Bodies"), does hereby find that the Legislative Bodies shall continue to conduct their meetings without compliance with Government Code section 54953(b)(3), as authorized by Government Code section 54953(e), and that the Legislative Bodies shall continue to comply with the requirements to provide the public with access to the meetings as prescribed in Government Code section 54953(e)(2) as a consequence of the ongoing state of emergency and the continued social distancing measures required by local officials.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF MODESTO DOES HEREBY RESOLVE AS FOLLOWS:

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

Section 2. Consideration of State of Emergency. The City Council has considered the conditions of the state of emergency declared pursuant to Government Code section 8625, and determined that such emergency conditions continue to be present in the City.


Section 3. Continued Social Distancing Measures by State and Local Officials.

The City Council finds that the State of California Health Officer's recommended measures to promote social distancing remain in effect.

Section 4. Remote Teleconference Meetings. The City Council finds that the conditions continue to exist pursuant to Government Code section 54953(e)(3) to allow Legislative Bodies to use teleconferencing to hold public meetings in accordance with Government Code section 54953(e)(2) to ensure members of the public have continued access to safely observe and participate in local government meetings.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 13th day of December, 2022, by Councilmember Wright, who moved its adoption, which motion being duly seconded by Councilmember Alvarez, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Alvarez, Bavaro, Escutia-Braaton, Ricci, Williams, Wright, Mayor Zwahlen  
NOES: Councilmembers: None  
ABSENT: Councilmembers: None

ATTEST:   
DIANE NAYARES-PEREZ, CMC,  
City Clerk

(SEAL)

APPROVED AS TO FORM:

BY:   
JOSE M. SANCHEZ, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2022-474**

**RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MODESTO  
AUTHORIZING CITY MANAGER OR HIS DESIGNEE TO EXECUTE  
AGREEMENTS WITH THE CALIFORNIA DEPARTMENT OF TAX AND FEE  
ADMINISTRATION FOR IMPLEMENTATION OF A LOCAL TRANSACTIONS  
AND USE TAX**

WHEREAS, on June 28, 2022, the City Council approved Ordinance No. 3746-C.S. amending the City Municipal Code and providing for a local transactions and use tax; and

WHEREAS, the California Department of Tax and Fee Administration (Department) administers and collects the transactions and use taxes for all applicable jurisdictions within the state; and

WHEREAS, the Department will be responsible to administer and collect the transactions and use tax for the City; and

WHEREAS, the Department requires that the City enter into a “Preparatory Agreement” and an “Administration Agreement” prior to implementation of said taxes, and

WHEREAS, the Department requires that the City Council authorize the agreements;

NOW, THEREFORE BE IT RESOLVED by the City Council of the City of Modesto that the “Preparatory Agreement” **attached** as **Exhibit A** and the “Administrative Agreement” **attached** as **Exhibit B** are hereby approved and the City Manager or his designee are hereby authorized to execute each agreement.

BE IT FURTHER RESOVLED, that the City Manager, or his designee are authorized to execute any and all other agreements or documents necessary to carry out the provisions of this resolution.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 13th day of December, 2022, by Councilmember Wright, who moved its adoption, which motion being duly seconded by Councilmember Alvarez, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Alvarez, Bavaro, Escutia-Braaton, Ricci, Williams, Wright, Mayor Zwahlen

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST:

  
DIANE NAYARES-PEREZ, CMC,  
City Clerk

(SEAL)

APPROVED AS TO FORM:

BY:   
JOSE M. SANCHEZ, City Attorney

**AGREEMENT FOR PREPARATION TO ADMINISTER AND OPERATE  
CITY'S TRANSACTIONS AND USE TAX ORDINANCE**

In order to prepare to administer a transactions and use tax ordinance adopted in accordance with the provision of Part 1.6 (commencing with Section 7251) of Division 2 of the Revenue and Taxation Code, the City of Modesto, hereinafter called *City*, and the CALIFORNIA DEPARTMENT OF TAX AND FEE ADMINISTRATION, hereinafter called *Department*, do agree as follows:

1. The Department agrees to enter into work to prepare to administer and operate a transactions and use tax in conformity with Part 1.6 of Division 2 of the Revenue and Taxation Code which has been approved by a majority of the electors of the City and whose ordinance has been adopted by the City.

2. City agrees to pay to the Department at the times and in the amounts hereinafter specified all of the Department's costs for preparatory work necessary to administer the City's transactions and use tax ordinance. The Department's costs for preparatory work include costs of developing procedures, programming for data processing, developing and adopting appropriate regulations, designing and printing forms, developing instructions for the Department's staff and for taxpayers, and other appropriate and necessary preparatory costs to administer a transactions and use tax ordinance. These costs shall include both direct and indirect costs as specified in Section 11256 of the Government Code.

3. Preparatory costs may be accounted for in a manner which conforms to the internal accounting and personnel records currently maintained by the Department. The billings for costs may be presented in summary form. Detailed records of preparatory costs will be retained for audit and verification by the City.

4. Any dispute as to the amount of preparatory costs incurred by the Department shall be referred to the State Director of Finance for resolution, and the Director's decision shall be final.

5. Preparatory costs incurred by the Department shall be billed by the Department periodically, with the final billing within a reasonable time after the operative date of the ordinance. City shall pay to the Department the amount of such costs on or before the last day of the next succeeding month following the month when the billing is received.

6. The amount to be paid by City for the Department's preparatory costs shall not exceed one hundred seventy-five thousand dollars (\$175,000) (Revenue and Taxation Code Section 7272.)

7. Communications and notices may be sent by first class United States mail. Communications and notices to be sent to the Department shall be addressed to:

California Department of Tax and Fee Administration  
P.O. Box 942879 MIC: 27  
Sacramento, California 94279-0027

Attention: Administrator  
Local Revenue Branch

Communications and notices to be sent to City shall be addressed to:

City of Modesto  
Finance Department  
PO Box 642  
Modesto, CA 95353  
Attn: Director of Finance

8. The date of this agreement is the date on which it is approved by the Department of General Services. This agreement shall continue in effect until the preparatory work necessary to administer City's transactions and use tax ordinance has been completed and the Department has received all payments due from City under the terms of this agreement.

CITY OF MODESTO

CALIFORNIA DEPARTMENT OF TAX  
AND FEE ADMINISTRATION

By \_\_\_\_\_  
(Signature)

By \_\_\_\_\_  
Administrator  
Local Revenue Branch

\_\_\_\_\_  
Joseph P. Lopez

\_\_\_\_\_  
City Manager

**AGREEMENT FOR STATE ADMINISTRATION  
OF CITY TRANSACTIONS AND USE TAXES**

The City Council of the City of Modesto has adopted, and the voters of the City of Modesto (hereafter called "City" or "District") have approved by the required majority vote, the City of Modesto Transactions and Use Tax Ordinance (hereafter called "Ordinance"), a copy of which is attached hereto. To carry out the provisions of Part 1.6 of Division 2 of the Revenue and Taxation Code and the Ordinance, the California State Department of Tax and Fee Administration, (hereinafter called the "Department") and the City do agree as follows:

**ARTICLE I  
DEFINITIONS**

Unless the context requires otherwise, wherever the following terms appear in the Agreement, they shall be interpreted to mean the following:

1. "District taxes" shall mean the transactions and use taxes, penalties, and interest imposed under an ordinance specifically authorized by Revenue and Taxation code Section 7285.9, and in compliance with Part 1.6, Division 2 of the Revenue and Taxation Code.

2. "City Ordinance" shall mean the City's Transactions and Use Tax Ordinance referred to above and attached hereto, Ordinance No. 3746-C.S., as amended from time to time, or as deemed to be amended from time to time pursuant to Revenue and Taxation Code Section 7262.2.

**ARTICLE II  
ADMINISTRATION AND COLLECTION  
OF CITY TAXES**

**A. Administration.** The Department and City agree that the Department shall perform exclusively all functions incident to the administration and operation of the City Ordinance.

**B. Other Applicable Laws.** City agrees that all provisions of law applicable to the administration and operation of the Department Sales and Use Tax Law which are not inconsistent with Part 1.6 of Division 2 of the Revenue and Taxation Code shall be applicable to the administration and operation of the City Ordinance. City agrees that money collected pursuant to the City Ordinance may be deposited into the State Treasury to the credit of the Retail Sales Tax Fund and may be drawn from that Fund for any authorized purpose, including making refunds, compensating and reimbursing the Department pursuant to Article IV of this Agreement, and transmitting to City the amount to which City is entitled.

**C. Transmittal of money.**

1. For the period during which the tax is in effect, and except as otherwise provided herein, all district taxes collected under the provisions of the City Ordinance shall be transmitted to City periodically as promptly as feasible, but not less often than twice in each calendar quarter.

2. For periods subsequent to the expiration date of the tax whether by City's self-imposed limits or by final judgment of any court of the State of California holding that City's ordinance is invalid or void, all district taxes collected under the provisions of the City Ordinance shall be transmitted to City not less than once in each calendar quarter.

3. Transmittals may be made by mail or electronic funds transfer to an account of the City designated and authorized by the City. A statement shall be furnished at least quarterly indicating the amounts withheld pursuant to Article IV of this Agreement.

**D. Rules.** The Department shall prescribe and adopt such rules and regulations as in its judgment are necessary or desirable for the administration and operation of the City Ordinance and the distribution of the district taxes collected thereunder.

**E. Preference.** Unless the payor instructs otherwise, and except as otherwise provided in this Agreement, the Department shall give no preference in applying money received for state sales and use taxes, state-administered local sales and use taxes, and district transactions and use taxes owed by a taxpayer, but shall apply moneys collected to the satisfaction of the claims of the State, cities, counties, cities and counties, redevelopment agencies, other districts, and City as their interests appear.

**F. Security.** The Department agrees that any security which it hereafter requires to be furnished by taxpayers under the State Sales and Use Tax Law will be upon such terms that it also will be available for the payment of the claims of City for district taxes owing to it as its interest appears. The Department shall not be required to change the terms of any security now held by it, and City shall not participate in any security now held by the Department.

**G. Records of the Department.**

When requested by resolution of the legislative body of the City under section 7056 of the Revenue and Taxation Code, the Department agrees to permit authorized personnel of the City to examine the records of the Department, including the name, address, and account number of each seller holding a seller's permit with a registered business location in the City, pertaining to the ascertainment of transactions and use taxes collected for the City. Information obtained by the City from examination of the Department's records shall be used by the City only for purposes related to the collection of transactions and use taxes by the Department pursuant to this Agreement.

**H. Annexation.** City agrees that the Department shall not be required to give effect to an annexation, for the purpose of collecting, allocating, and distributing District transactions and use taxes, earlier than the first day of the calendar quarter which commences not less than two months after notice to the Department. The notice shall include the name of the county or counties annexed to the extended City boundary. In the event the City shall annex an area, the boundaries of which are not coterminous with a county or counties, the notice shall include a description of the area annexed and two maps of the City showing the area annexed and the location address of the property nearest to the extended City boundary on each side of every street or road crossing the boundary.

**ARTICLE III**

**ALLOCATION OF TAX**

**A. Allocation.** In the administration of the Department's contracts with all districts that impose transactions and use taxes imposed under ordinances, which comply with Part 1.6 of Division 2 of the Revenue and Taxation Code:

1. Any payment not identified as being in payment of liability owing to a designated district or districts may be apportioned among the districts as their interest appear, or, in the discretion

of the Department, to all districts with which the Department has contracted using ratios reflected by the distribution of district taxes collected from all taxpayers.

2. All district taxes collected as a result of determinations or billings made by the Department, and all amounts refunded or credited may be distributed or charged to the respective districts in the same ratio as the taxpayer's self-declared district taxes for the period for which the determination, billing, refund or credit applies.

**B. Vehicles, Vessels, and Aircraft.** For the purpose of allocating use tax with respect to vehicles, vessels, or aircraft, the address of the registered owner appearing on the application for registration or on the certificate of ownership may be used by the Department in determining the place of use.

#### **ARTICLE IV** **COMPENSATION**

The City agrees to pay to the Department as the State's cost of administering the City Ordinance such amount as is provided for by law. Such amounts shall be deducted from the taxes collected by the Department for the City.

#### **ARTICLE V** **MISCELLANEOUS PROVISIONS**

**A. Communications.** Communications and notices may be sent by first class United States mail to the addresses listed below, or to such other addresses as the parties may from time to time designate. A notification is complete when deposited in the mail.

Communications and notices to be sent to the Department shall be addressed to:

California State Department of Tax and Fee Administration  
P.O. Box 942879  
Sacramento, California 94279-0027

Attention: Administrator  
Local Revenue Branch

Communications and notices to be sent to the City shall be addressed to:

City of Modesto  
Finance Department  
PO Box 642  
Modesto, CA 95353  
Attn: Director of Finance

**Unless otherwise directed, transmittals of payment of District transactions and use taxes will be sent to the address above.**

**B. Term.** The date of this Agreement is the date on which it is approved by the Department of General Services. The Agreement shall take effect on \_\_\_\_\_. This Agreement shall continue until December 31 next following the expiration date of the City Ordinance, and shall thereafter be renewed automatically from year to year until the Department completes all work necessary to the administration of the City Ordinance and has received and disbursed all payments due under that Ordinance.

**C. Notice of Repeal of Ordinance.** City shall give the Department written notice of the repeal of the City Ordinance not less than 110 days prior to the operative date of the repeal.

**ARTICLE VI**  
ADMINISTRATION OF TAXES IF THE  
ORDINANCE IS CHALLENGED AS BEING INVALID

**A. Impoundment of funds.**

1. When a legal action is begun challenging the validity of the imposition of the tax, the City shall deposit in an interest-bearing escrow account, any proceeds transmitted to it under Article II. C., until a court of competent jurisdiction renders a final and non-appealable judgment that the tax is valid.

2. If the tax is determined to be unconstitutional or otherwise invalid, the City shall transmit to the Department the moneys retained in escrow, including any accumulated interest, within ten days of the judgment of the trial court in the litigation awarding costs and fees becoming final and non-appealable.

**B. Costs of administration.** Should a final judgment be entered in any court of the State of California, holding that City's Ordinance is invalid or void, and requiring a rebate or refund to taxpayers of any taxes collected under the terms of this Agreement, the parties mutually agree that:

1. Department may retain all payments made by City to Department to prepare to administer the City Ordinance.

2. City will pay to Department and allow Department to retain Department's cost of administering the City Ordinance in the amounts set forth in Article IV of this Agreement.

3. City will pay to Department or to the State of California the amount of any taxes plus interest and penalties, if any, that Department or the State of California may be required to rebate or refund to taxpayers.

4. City will pay to Department its costs for rebating or refunding such taxes, interest, or penalties. Department's costs shall include its additional cost for developing procedures for processing

the rebates or refunds, its costs of actually making these refunds, designing and printing forms, and developing instructions for Department's staff for use in making these rebates or refunds and any other costs incurred by Department which are reasonably appropriate or necessary to make those rebates or refunds. These costs shall include Department's direct and indirect costs as specified by Section 11256 of the Government Code.

5. Costs may be accounted for in a manner, which conforms to the internal accounting, and personnel records currently maintained by the Department. The billings for such costs may be presented in summary form. Detailed records will be retained for audit and verification by City.

6. Any dispute as to the amount of costs incurred by Department in refunding taxes shall be referred to the State Director of Finance for resolution and the Director's decision shall be final.

7. Costs incurred by Department in connection with such refunds shall be billed by Department on or before the 25th day of the second month following the month in which the judgment of a court of the State of California holding City's Ordinance invalid or void becomes final. Thereafter Department shall bill City on or before the 25th of each month for all costs incurred by Department for the preceding calendar month. City shall pay to Department the amount of such costs on or before the last day of the succeeding month and shall pay to Department the total amount of taxes, interest, and penalties refunded or paid to taxpayers, together with Department costs incurred in making those refunds.

CITY OF MODESTO

CALIFORNIA STATE DEPARTMENT OF  
TAX AND FEE ADMINISTRATION

By \_\_\_\_\_  
(Signature)

By \_\_\_\_\_  
Administrator  
Local Revenue Branch

\_\_\_\_\_  
Joseph P. Lopez

\_\_\_\_\_  
City Manager

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2022-475**

**RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MODESTO,  
AUTHORIZING THE EXAMINATION OF SALES OR TRANSACTIONS AND  
USE TAX RECORDS**

WHEREAS, pursuant to Ordinance No. 3746-C.S. and Resolution Number No. 2022-474 of the City of Modesto (City), and Revenue and Taxation Code section 7270, the District entered into a contract with the California Department of Tax and Fee Administration (Department) to perform all functions incident to the administration and collection of transactions and use taxes; and

WHEREAS, the Board of the District deems it desirable and necessary for authorized officers, employees and representatives of the District to examine confidential sales or transactions and use tax records of the Department pertaining to transactions and use taxes collected by the Department for the District pursuant to that contract; and

WHEREAS, Section 7056 of the California Revenue and Taxation Code sets forth certain requirements and conditions for the disclosure of Department records, and Section 7056.5 of the California Revenue and Taxation Code establishes criminal penalties for the unlawful disclosure of information contained in, or derived from, the sales or transactions and use tax records of the Department;

NOW, THEREFORE, THE CITY COUNCIL OF CITY OF MODESTO  
HEREBY RESOLVES AS FOLLOWS:

**Section 1.** That the Director of Finance, Revenue Collection and Compliance Manager, Accounting Manager and Senior Financial Analyst or other officer or employee of the City designated in writing by the City Manager to the California Department of Tax and Fee Administration is hereby appointed to represent the District with authority to

examine sales or transactions and use tax records of the Department pertaining to transactions and use taxes collected for the District by the Department pursuant to the contract between the District and the Department.

**Section 2.** The information obtained by examination of Department records shall be used only for purposes related to the collection of District transactions and use taxes by the Department pursuant to that contract.

**Section 3.** That MuniServices LLC is hereby designated to examine the sales or transactions and use tax records of the Department pertaining to transactions and use taxes collected for the District by the Department. The person or entity designated by this section meets all of the following conditions, which are also included in the contract between the District and the MuniServices LLC:

- a) has an existing contract with the District to examine those sales or transactions and use tax records;
- b) is required by that contract to disclose information contained in, or derived from, those sales or transactions and use tax records only to the officer or employee authorized under Section 1 of this resolution to examine the information.
- c) is prohibited by that contract from performing consulting services for a retailer during the term of that contract;
- d) is prohibited by that contract from retaining the information contained in, or derived from those sales or transactions and use tax records, after that contract has expired.

BE IT FURTHER RESOLVED that the information obtained by examination of Department records shall be used only for purposes related to the collection of District

transactions and use taxes by the Department pursuant to the contract between the District and the Department.

**Section 4.** That MuniServices LLC is hereby designated to examine the sales or transactions and use tax records of the Department pertaining to any petition or appeal for the reallocation/redistribtuion of sales or transactions and use taxes that was filed by MuniServices LLC on behalf of the District pursuant to the contract between the MuniServices LLC and District. The person or entity designated by this section meets all of the following conditions, which are also included in the contract between the District and the MuniServices LLC:

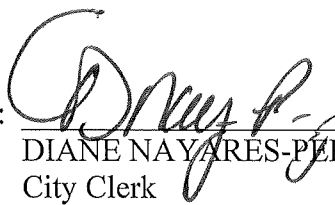
- a) has an existing contract with the District to examine those sales or transactions and use tax records;
- b) is required by that contract to disclose information contained in, or derived from, those sales or transactions and use tax records only to the officer or employee authorized under Section 1 of this resolution to examine the information.
- c) is prohibited by that contract from performing consulting services for a retailer during the term of that contract;
- d) is prohibited by that contract from retaining the information contained in, or derived from those sales or transactions and use tax records, after that contract has expired.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 13th day of December, 2022, by Councilmember Wright, who moved its adoption, which motion being duly seconded by Councilmember Alvarez, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Alvarez, Bavaro, Escutia-Braaton, Ricci, Williams, Wright, Mayor Zwahlen

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST:   
DIANE NAYARES-PÉREZ, CMC,  
City Clerk

(SEAL)

APPROVED AS TO FORM:

BY:   
JOSE M. SANCHEZ, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2022-476**

**RESOLUTION APPROVING A THIRD AMENDMENT TO THE LEGAL SERVICES AGREEMENT WITH NOSSAMAN LLP TO ADJUST THE BLENDED HOURLY RATE FROM \$425 TO \$438 AND EXTENDING THE TERM OF THE AGREEMENT TO DECEMBER 31, 2023, TO CONTINUE TO PROVIDE EMINENT DOMAIN LEGAL SERVICES FOR STATE ROUTE 132 WEST FREEWAY/EXPRESSWAY PHASE 1 PROJECT, WITH NO INCREASE TO THE NOT TO EXCEED AMOUNT OF \$2,000,000 FOR THE AGREEMENT AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE AMENDMENT**

WHEREAS, State Route (“SR”) 132 is an east-west highway that extends from I-580 in the Central Valley, south of the City of Tracy, to SR 49 in the foothills of the Sierra Mountains, terminating in the town of Coulterville; and

WHEREAS, SR 132 is a vital link through the Central Valley, serving local traffic from these communities and providing for regional traffic between the Bay Area and the mountains for the movement of traffic and goods and services, and provides access to the recreational areas east of Modesto via SR 49; and

WHEREAS, the purpose of the Project is to improve regional and interregional circulation, relieve traffic congestion along existing SR 132, and enhance safety and operations for the existing and proposed transportation network; and

WHEREAS, on September 4, 2018, by Resolution No. 2018- 381, Council approved a professional services agreement with Nossaman LLP of Los Angeles, California for Eminent Domain Legal Services for State Route 132 West Freeway/Expressway Phase 1 Project in an amount not to exceed \$2,000,000; and

WHEREAS, on January 26, 2021, by Resolution No. 2021-028, Council approved a First Amendment to the Legal Services Agreement with Nossaman LLP to adjust the

blended hourly rate from \$385 to \$425, with no increase to the not to exceed amount of \$2,000,000 for the Agreement; and

WHEREAS, on December 6, 2021, pursuant to Article 2. “Period of Performance,” of the agreement, the City entered into a Second Amendment to the Legal Services Agreement with Nossaman, LLP to extend the termination date of the agreement to December 31, 2022; and

WHEREAS, Nossaman has provided legal services to the City at a blended rate of \$425. A blended rate is beneficial to the City as it captures attorney services that would usually be charged at a higher rate; and

WHEREAS, Nossaman has requested an increase to their rate by \$13 an hour to a new blended hourly rate of \$438; and

WHEREAS, the not to exceed amount of the agreement will not increase based on their hourly rate; and

WHEREAS, this amendment will also formally extend the agreement into its fifth and final year with the termination date of December 31, 2023.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves a Third Amendment to the Legal Services Agreement with Nossaman LLP to adjust the blended hourly rate from \$425 to \$438 and extend the term of the agreement to December 31, 2023. to continue to provide Eminent Domain Legal Services for State Route 132 West Freeway/Expressway Phase 1 Project with no increase to the not to exceed amount of \$2,000,000 for the Agreement.

BE IT FURTHER RESOLVED, that the City Manager or his designee, are hereby authorized to execute the amendment, in a form approved by the City Attorney.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 13th day of December, 2022, by Councilmember Wright, who moved its adoption, which motion being duly seconded by Councilmember Alvarez, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Alvarez, Bavaro, Escutia-Braaton, Ricci, Williams, Wright, Mayor Zwahlen

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST:   
DIANE NAYARES-PEREZ, CMC,  
City Clerk

(SEAL)

APPROVED AS TO FORM:

BY:   
JOSE M. SANCHEZ, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2022-477**

**RESOLUTION APPROVING A SECOND AMENDMENT TO THE LEGAL SERVICES AGREEMENT WITH RIVERA HEWITT PAUL, LLP IN THE AMOUNT OF \$255,000, FOR A TOTAL AGREEMENT AMOUNT NOT TO EXCEED \$400,000, FOR CONTINUED REPRESENTATION IN POLICE LITIGATION MATTERS AND AUTHORIZING THE CITY MANAGER OR HIS DESIGNEE, TO EXECUTE THE AMENDMENT**

WHEREAS, on April 14, 2021, the City entered into a standard legal services agreement with Rivera Hewitt Paul, LLP for litigation, trial counsel, legal advice, representation and assistance to the City in police related matters; and

WHEREAS, on November 9, 2021, by Resolution No. 2021-439, Council approved a First Amendment to this agreement, increasing the not to exceed amount to \$145,000 for continued representation; and

WHEREAS, our office is requesting an increase to the agreement budget in the amount of \$255,000 to support continued services, for a total agreement amount not to exceed \$400,000; and

WHEREAS, the City Attorney's office has drafted a Second Amendment to the Legal Services agreement with Rivera Hewitt Paul, LLP for continued services.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves a Second Amendment to the Legal Services Agreement with Rivera Hewitt Paul, LLP, in the amount of \$255,000, for a total agreement amount not to exceed \$400,000 for continued representation in police litigation matters as provided in **Exhibit A attached** hereto and incorporated herein, and further authorizes the City Attorney to execute such agreement in a form substantially similar to **Exhibit A**.

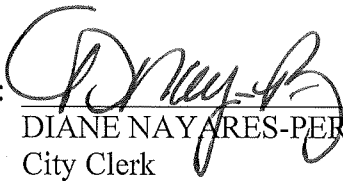
BE IT FURTHER RESOLVED, that the City Manager or his designee, are hereby authorized to execute the agreement, in a form approved by the City Attorney.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 13th day of December, 2022, by Councilmember Wright, who moved its adoption, which motion being duly seconded by Councilmember Alvarez, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Alvarez, Bavaro, Escutia-Braaton, Ricci, Williams, Wright, Mayor Zwahlen

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST:   
DIANE NAYARES-PEREZ, CMC,  
City Clerk

(SEAL)

APPROVED AS TO FORM:

BY:   
JOSE M. SANCHEZ, City Attorney

## SECOND AMENDMENT TO LEGAL SERVICES AGREEMENT

This Second Amendment to the Legal Services (this “**Second Amendment**”), is made and entered into on 13<sup>th</sup> day of December 2022 (“**Effective Date**”), by and between the **CITY OF MODESTO**, a California Municipal Corporation (“**City**”), and **RIVERA HEWITT PAUL, LLP** (“**Attorney**”), located at 11341 Gold Express Drive, Suite 160, Gold River, California 95670. City and Attorney are hereinafter collectively referred to as the “**Parties**,” and singularly as “**Party**”.

### RECITALS

**WHEREAS**, City and Attorney entered into a Legal Services Agreement (“**Agreement**”) to provide litigation, trial counsel, legal advice, representation and assistance to City in relation to police matters including use of force and the discharge of a weapon; and

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

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

**WHEREAS**, City and Attorney desire to amend the Agreement for further service by increasing the previously approved amount of fees from \$145,000 to \$400,000.

**NOW, THEREFORE**, it is hereby agreed that the Legal Services Agreement between the City of Modesto and Rivera Hewitt Paul dated April 14, 2021, and amended by Resolution No. 2021-439 is amended as follows:

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

“The total of all fees paid to Attorney for the performance of all services set forth in Section 1 (hereafter the “**Service**”), and for all authorized Reimbursable Expenses (as defined hereafter), shall not exceed a total sum of four hundred thousand dollars (\$400,000).”

2. **Entire Agreement.** The parties to this Second Amendment understand and agree that except as stated herein all terms and conditions of the original Agreement, dated April 14, 2021, remain in full force and effect to the extent they are not in conflict with this Second Amendment. This document, including all exhibits, contain the entire amendment to the Agreement between the Parties and supersedes whatever oral or written understanding they may have had prior to the execution of this Second Amendment. No alteration to the terms of this Second Amendment shall be valid unless approved in writing by Attorney and by City, in accordance with applicable provision of the Modesto City Code.

3. **Authority.** The person signing this Second Amendment for Attorney hereby represents and warrants that he/she is fully authorized to sign this Second Amendment on behalf of Attorney and to bind Attorney to the performance of its obligations hereunder.

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

**CITY OF MODESTO,**  
A Municipal Corporation

By: \_\_\_\_\_

Print name: Joseph P. Lopez

Title: City Manager

**APPROVED TO AS FORM:**

\_\_\_\_\_  
Jose M. Sanchez, City Attorney

**ATTEST:**

\_\_\_\_\_  
Diane Nayaes-Perez, City Clerk

\_\_\_\_\_  
Christina Alger, Director of Human Resources

**[Signatures Continued on Next Page.]**

**ATTORNEY:  
RIVERA HEWITT PAUL LLP**

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Federal I.D. No.

---

State I.D. No.

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City of Modesto Business Op. Tax Cert. No.

TYPE OF BUSINESS ENTITY (*check one*):

- Individual/Sole Proprietor
- Partnership
- Corporation
- Limited Liability Company
- Other (*please specify:* \_\_\_\_\_)

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**Signature of Authorized Person**

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Title

---

Additional Signature (*if required*)

---

Title

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2022-478**

**RESOLUTION ACCEPTING THE CITY OF MODESTO CANNABIS EQUITY  
ASSESSMENT REPORT**

WHEREAS, on November 8, 2016, California voters approved Proposition 64, the Control, Regulate, and Tax Adult Use of Marijuana Act (AUMA); and

WHEREAS, funding has been allocated to the Governor's Office of Business and Economic Development to provide grant funds to local governments pursuant to AB 97 (Stats. 2019, Ch. 40), for Cannabis Equity program purposes; and

WHEREAS, the City Council has adopted a Commercial Cannabis Ordinance, Ordinance 3684-C.S., that established the City's regulatory framework for commercial cannabis businesses; and

WHEREAS, the City of Modesto desired to assess a potential local equity program for prospective commercial cannabis business owners; and

WHEREAS, the City Council of the City of Modesto supported the development of a local equity program; and

WHEREAS, on January 26, 2021, by Resolution No.2021-024, the City Council authorized the City Manager to apply for a State Cannabis Equity Grants Program for Local Jurisdictions, for an amount up to \$75,000 for the purposes of funding a cannabis equity assessment and funding the potential development of a cannabis equity program; and

WHEREAS, in March of 2021, the Governor's Office of Business and Economic Development announced that the City of Modesto application was selected for funding in the amount of \$75,000; and

WHEREAS, on April 27, 2021, by Resolution No. 2021-156, the City Council authorized the original grant agreement with the Governor's Office of Business and Economic Development for the amount of \$75,000 for the purposes of program assessment and development; and

WHEREAS, on December 22, 2021, the City released a Request for Proposal (RFP) soliciting qualifications from qualified consulting firms and/or individuals, with demonstrated experience in providing cannabis equity consulting services to conduct a cannabis equity assessment and/or assist with the development of a local equity program; and

WHEREAS, the Brenda Davis Law Group was selected through the solicitation process because of their demonstrated experience in providing cannabis equity consulting services to conduct a cannabis equity assessment and develop a cannabis equity program; and

WHEREAS, on March 17, 2022, under the City Manager's authority pursuant to Modesto Municipal Code Section 8-3.102 the City entered into an agreement with the Brenda Davis Law Group for a not to exceed amount of \$40,000; and

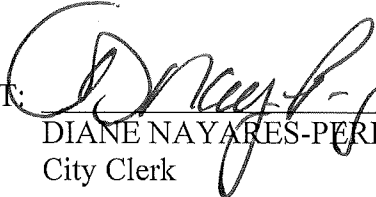
WHEREAS, on August 9, 2022, by Resolution No.334, the City authorized a First Amendment to the agreement increasing the compensation amount by \$49,050 from \$40,000 to a total of \$89,050 to continue the development of a cannabis equity program; and

WHEREAS, the equity assessment report, as shown in **Exhibit 1 attached** hereto, has been completed by the Brenda Davis Law Group in October of 2022 which provides the framework for a City of Modesto cannabis equity program.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby accepts the City of Modesto Cannabis Equity Assessment and Program Development Report.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 13th day of December, 2022, by Councilmember Wright, who moved its adoption, which motion being duly seconded by Councilmember Alvarez, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Alvarez, Bavaro, Escutia-Braaton, Ricci, Williams, Wright, Mayor Zwahlen  
NOES: Councilmembers: None  
ABSENT: Councilmembers: None

ATTEST:   
DIANE NAYARES-PEREZ, CMC,  
City Clerk

(SEAL)

APPROVED AS TO FORM:

BY:   
JOSE M. SANCHEZ, City Attorney



# CITY OF MODESTO CANNABIS EQUITY ASSESSMENT

Prepared By  
**The Brenda Davis Law Group**

Presented To  
**City of Modesto**



UCLA CENTER FOR  
HEALTH POLICY RESEARCH



## ABSTRACT

Modesto is a city with rich agricultural roots and a dynamic multicultural mix of residents. Its name is Spanish for “modest,” yet its influence as a major transportation hub for Central Valley industrial and recreational pursuits is far-reaching. The city has made significant progress on its economic vitality goal of making downtown Modesto a regional destination for housing, businesses, events, and entertainment offerings. Cannabis businesses are expressly excluded from locating in the downtown area, however, and this report provides context for how this limitation may have emerged. It also identifies other areas where such businesses may be able to enhance economic vitality.

This City of Modesto Cannabis Equity Assessment (CEA or Assessment) provides human-centered, data-driven insight into the impacts of cannabis criminalization and the War on Drugs on communities within the city’s jurisdiction. The Assessment includes a Program Development section that provides preliminary findings to guide the establishment of a local cannabis equity program (LCEP). The LCEP is consistent with the City of Modesto’s policy on Diversity, Equity and Inclusion as it intends to advance economic justice for populations and communities disproportionately affected by cannabis prohibition.

## ACKNOWLEDGEMENTS

It is our pleasure to recognize key community members, organizations, subject matter experts, and City of Modesto staff who have worked diligently to support our outreach and engagement efforts. Each added critical resources and immense value to every step in this process. We offer a special thank you and owe incredible gratitude to the City of Modesto’s leadership and staff, including Scotty Douglass, Deputy City Manager, Jaylen French, Director of Community & Economic Development, Jorge Barrera, Economic Development Manager, Robert Kimball, Marketing Specialist, Marc Garcia, Office of the City Manager-Community & Media Relations; community volunteers provided by Wendy Byrd, President, NAACP Modesto-Stanislaus Branch, and Michael Baldwin, Chair, Criminal Justice Committee; meeting spaces provided by Dr. Perfecto Munoz, Director, King-Kennedy Memorial Center, and Pastor Nathaniel and Dorothea Green, Christ Unity Baptist Church; community members Eric Epton, LaPrice Reynolds, and George Kirk; and professional services provided by Marquis Townsend, Principal, MIXT Accounting Firm, Dr. Reggie T. Brown, CEO, Ascension Consulting & Multimedia LLC, her subject matter expert circles and media arts team.

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## Section 1. EXECUTIVE SUMMARY

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The City of Modesto started a Cannabis Equity Assessment (CEA or Assessment) effort to gather data on the people and neighborhoods disproportionately marginalized by prior cannabis criminalization policies. City staff responded to a Cannabis Equity Grants (CEG) Program Solicitation for Local Jurisdictions issued in October 2021 to help fund the CEA. In March of 2022, the City of Modesto contracted with a cannabis subject matter expert from The Brenda Davis Law Group to assist with gathering data and preparing an analysis and report. The effort to use arrest data as a starting point in the analysis continued throughout this process as we pursued access to expunged police data and alternative sources of information for all arrests and convictions for the sale, purchase, possession, or consumption of cannabis prior to the November 8, 2016 legalization of commercial cannabis in California (Prop 64). To round out the Assessment in areas where quantitative data were unavailable or underreported, The Brenda Davis Law Group team also developed a means to gather qualitative information, using surveys, community forums, focus groups, and lived experience interviews to create a robust and specific community profile.

The team emphasized multicultural community outreach and consensus building among individuals and neighborhoods that may have been disproportionately displaced by prior cannabis prohibition. This approach has produced the following advantages:

- It provides human-centered, data-driven insight into the history of impacts on individuals and their view of community deterioration and barriers created due to drug enforcement policies that focused on certain neighborhoods.
- It provides findings to develop policy recommendations as the City of Modesto considers a local cannabis equity program (LCEP) that intentionally advances economic justice for populations and communities disproportionately affected by cannabis prohibition.

The City of Modesto can use the LCEP as a process for engaging communities to ensure that people with marginalized identities have the opportunity to gain experience, contribute, and develop consistently with its policy on Diversity, Equity and Inclusion. To accomplish the established scope of work, The Brenda Davis Law Group worked with city staff and partnered with the NAACP and a diverse population of Modesto residents to produce the CEA data and report. Our joint efforts helped the City of Modesto understand the local long-term negative impact that criminalization of cannabis has had on its communities.

### Key Findings

The historical impacts of cannabis prohibition on people and neighborhoods disproportionately marginalized by prior cannabis criminalization policies in the City of Modesto occurred primarily in the 95350, 95351, 95354, and 95355 zip codes. These impacts can be grouped into three recurring themes about barriers to entry which emerged from community feedback from the surveys, community forums, focus groups, and lived experience interviews:

- I. Education and Technical Training – the City of Modesto should help remove the stigma of prior criminalization and provide simple and clear cannabis business facts and instructions, access to ownership opportunities, support for skills transfers, training and mentoring on starting and running a legally compliant cannabis business or ancillary business.
- II. Community Reinvestment – the City of Modesto should reinvest in the communities hardest hit by the War on Drugs by assisting community organizations with drug prevention and treatment services, family support for healing the effects of prior criminalization, grant writing services and tips and alerts to gain access to available city tax revenues and California Community Reinvestment Grants Program (CalCRG) opportunities.
- III. Access to Capital – the City of Modesto should provide location assistance for access to commercial properties in the hardest hit communities and technical support and training on how to build wealth and qualify for available sources of small business financing.

Our findings are further discussed below in Section 7, and our recommendations appear below in Section 8. We considered data from all available sources, both quantitative and qualitative.

## Section 2. BACKGROUND

---

California became the first state to allow medicinal cannabis use when voters passed the Compassionate Use Act in 1996. Today, cannabis is legal in California for both medicinal and adult (recreational) use. The Medicinal and Adult Use Cannabis Regulation and Safety Act (MAUCRSA), established a uniform licensing regime for both



Modesto Arch [This Photo](#) by Unknown Author is licensed under [CC BY-SA-](#) medicinal and adult-use cannabis, effective January 1, 2018. MAUCRSA authorized a comprehensive system that provides the basic framework used by a number of local jurisdictions, including the City of Modesto, to regulate medicinal and recreational cannabis businesses. Local jurisdictions may ban cannabis businesses entirely or adopt more stringent requirements and limitations than state regulations may allow.

The City of Modesto adopted Ordinance 3684-C.S. legalizing certain types of commercial cannabis businesses in December 2017. Currently, the city allows up to 10 cannabis dispensaries and has no limit on the number of non-dispensary businesses. To date, the City of Modesto has approved 8 cannabis dispensary businesses, of which 7 are operational, and 6 non-dispensary cannabis businesses, of which 3 are operational, according to information provided by city staff on October 13, 2022. The Modesto City Council formed a Cannabis Permit Review Committee to which it delegated the authority to approve all cannabis businesses in 2021. This committee was renamed in 2022 and now advises the full council on all cannabis-related issues as the Cannabis Program and Permit Review Committee. Countywide, the Stanislaus County Board of Supervisors runs a separate permitting program that allows for 61 total Commercial Cannabis Business Licenses. This level of present and potential legal cannabis activity in the area affords an opportunity for Modesto to serve as a hub for retail, cultivation and other authorized cannabis businesses as it makes up 40% of the county population.

MAUCRSA permits adults, 21 years of age or older, to legally possess, transport, purchase, consume, or share up to one ounce ( $\leq 28.5\text{g}$ ) of marijuana, and up to 8 grams of marijuana concentrates. It also permits adults, 21 years of age or older, to grow up to 6 marijuana plants per household out of public view. In addition to its legalization provisions, MAUCRSA reduces the penalty for many marijuana offenses. MAUCRSA also has a resentencing provision which permits persons previously convicted of designated marijuana offenses to obtain a reduced conviction or sentence. There is also a provision requiring the court to “dismiss and seal” the record of conviction.

MAUCRSA creates a marijuana tax to be imposed on purchasers of marijuana and marijuana products. The Governor's Office of Business and Economic Development (GO-Biz) currently allocates a portion of this tax revenue for local health departments and qualified community-based nonprofit organizations. In addition to the tax revenue made available to local communities, GO-Biz provides opportunities for cities and counties to receive grant funding to create cannabis social equity programs. As a result, several cities and counties have adopted cannabis equity ordinances. Each ordinance supports equity applicants in diverse ways.

The City of Modesto intends to develop a local cannabis equity program (LCEP) designed to remove barriers to entry into the legal cannabis business for people who were negatively impacted by convictions or arrests during the War on Drugs. The community responses to surveys and participation in the community forums, focus groups and lived experience interviews painted a vivid picture of these barriers, as discussed in more detail below. The LCEP, when pursued with diligence by both the City of Modesto and the social equity participants, will help to reconcile the injustices suffered by those individuals who were criminalized and denied access to housing, employment, family stability, and other critical elements of a resilient community for engaging in the same activities that are now legal and highly profitable for others who do not face these barriers. Also, having a LCEP would position Modesto community organizations to better align themselves for access to a portion of the GO-Biz tax funds to provide drug prevention and treatment and youth and adult supportive services as reinvestments in individuals and their neighborhoods.

## Section 3. OVERVIEW

The City of Modesto is located in the heart of the California Central Valley within Stanislaus County. The city's general population accounts for 40% of the residents of Stanislaus County. This Assessment uses available data sets and reviews arrest and conviction rates by race, ethnicity and geolocation. The federal government identified the Central Valley as a High Intensity Drug Trafficking Area (HIDTA) in

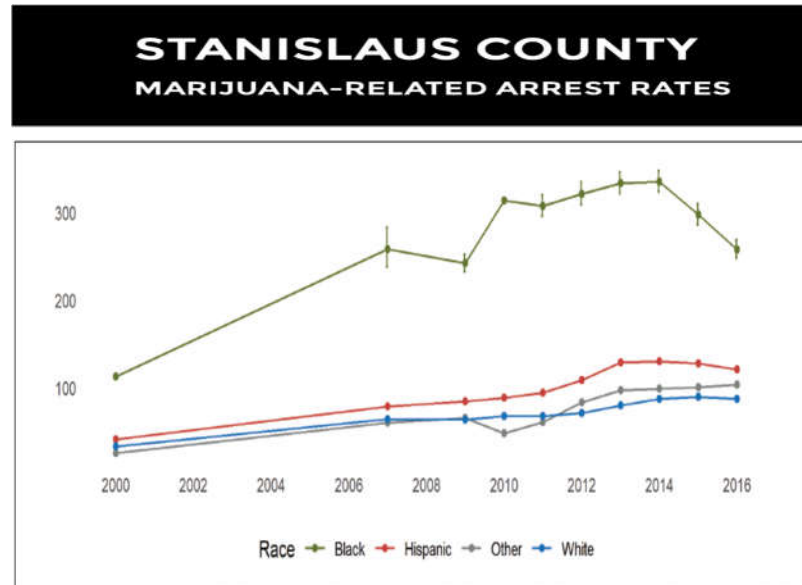


Figure 1a - "When the Smoke Clears Report." *Racial Disparities in California's*

1999. The region includes metropolitan areas, such as Bakersfield, Fresno, Modesto, and Sacramento. Mexican Drug Trafficking Organizations (DTOs) played a major role in the reason the region received this HIDTA designation. When reviewing arrest and conviction data for this area, we found that Hispanic ethnicity is provided as a racial identity in the region, but not as an ethnicity within the local Modesto community. In fact, researchers at U.C. Davis in 2016 found it necessary to develop a formula for arrest rate analysis because reliable race-specific population estimates were and continue to be sparse. Figure 1a shows the results of applying this formula. Hispanic arrest rates appear in the data as a 1:1 ratio. This ratio was calculated as follows: (TOTAL # ARRESTS FOR HISPANICS IN 2005/2009) / 5 (ACS 5-YEAR ESTIMATE OF THE HISPANIC POPULATION FOR 2005-09) / 100,000. The margin of error (MOE) for the Black-White ratio for each year was calculated in the following manner:

$MOE (AB/AW * PW/PB) = AB/AW * MOE(PW/PB)$ , where the  $MOE(PW/PB)$  was calculated using the MOE formula of the ratio from the 2016 American Community Survey (ACS) 5-year estimates for 2009-2016.

This ratio is highly inconsistent with conviction rates and leads us to believe a large number of Hispanic convictions reported in the California Department of Corrections and Rehabilitation (CDCR)

data may include Hispanics that were identified as “White” and distributed within the “White” category, as shown below in Figure 1b. In comparison, Blacks in Modesto were 3 to 4 times more likely to be arrested for drug felonies prior to 2010. Due to state reforms to reclassify felony drug offenses as misdemeanors, today the data show a steep decline in cannabis related arrests (see Figure 1a above.)

	<b>Convictions Between 1980-2016</b>	<b>Percentage*</b>
Other	139	2%
White	3283	53%
American Indian	65	1%
Black	675	11%
Hispanic	2014	32%
Asian or Pacific		
Islander	25	0.4%
	<b>6201</b>	<b>100%</b>


Figure 1b - California Department of Corrections and Rehabilitation - Stanislaus County Percentage of Convictions by Race/Ethnicity

While the State of California bookends the War on Drugs as the period from 1980 to 2016, the CEA also considers the history of criminalization policies prior to 1980 and the negative impacts on individuals and communities that continue to the present day.

According to the 2019 ACS 1-year estimates, as shown in Figure 2a, over 70% of available employment opportunities are in the skilled trades, services, transportation, and labor industries. Additionally, the City of Modesto has a 55% employment rate, with 16.2% of the population earning a bachelor’s degree or higher. The 2020 ACS 5-year estimates show the median household income in the City of Modesto was \$60,254 in 2020. Figure 3 below provides QuickFacts taken from the 2020 ACS 5-year estimates regarding the key population characteristics of the City of Modesto.

Population (Modesto Incorporated Area): 215,196			
Date of Incorporation	August 6, 1884	Median Household Income:	\$62,067
Adoption of City Charter	January 14, 1963	Median Family Income:	\$71,836
Form of Government	Council-Manager	Median Age:	35.8
Educational Attainment (age 25 up)		Housing	
Less than 9th Grade	8.7%	Housing Units	75,816
Some High School, no diploma	7.9%	Median Housing Unit Value (Zillow 4/18)	\$289,800
High school graduate or equivalent	31.9%	Median Monthly Rent (Zillow 4/18)	\$1,436
Some College, no Degree	26.2%		
College Graduate: Associate's Degree	7.5%	Employment Data (age 16 up)	
College Graduate: Bachelor's Degree	12.7%	Management, Business, Science & Arts Occupations:	26.4%
Graduate or professional degree	5.1%	Service Occupations	18.7%
Ethnic Snapshot		Sales & Office Occupations	25.0%
White	43.7%	Natural Resources, Construction, & Maintenance Occupations	12.3%
Hispanic	41.9%	Production, Transportation, & Material Moving	17.7%
Asian	6.0%	Major Employers	
Black or African-American	Not reported	E & J Gallo Winery	Modesto City Schools
American Indian or Alaskan Native	Not reported	Del Monte Foods	Memorial Medical Ctr.
Native Hawaiian or Pacific Islander	0.5%	Foster farms dairy	Doctors Medical Ctr.
Other Race	5.0%	Stanislaus Food Prod.	Save Mart Supermarkets
Two or More Races	4.0%	Silgan Containers	Modesto Junior College
		Frito Lay Foods	Wal-Mart (3 Locations)
		Pacific SW Containers	Kaiser Permanente
		Rizo-Lopez Foods	Sutter-Gould Med. Fdn.
			Med-America
			DataPath HQ

**SOURCE: Dept of Census 2019 ACS 1-Year Estimates**


 City of Modesto  
 1010 Tenth St.  
 Modesto, CA 95354  
<https://www.modestogov.com>

The multicultural mix in Modesto is largely White alone, followed by Hispanic or Latino, then Black or African American with the inclusion of Two or More Races, as shown in Figures 2a and 2b. Over half the population is comprised of homeowners who spend slightly more on their mortgages than the median gross rent spent by non-homeowners. A more detailed snapshot of the Modesto population appears in Figure 3.

Figure 2a - Bureau, U. S. C. (n.d.). US Census. 2019 ACS 1-Year Estimates

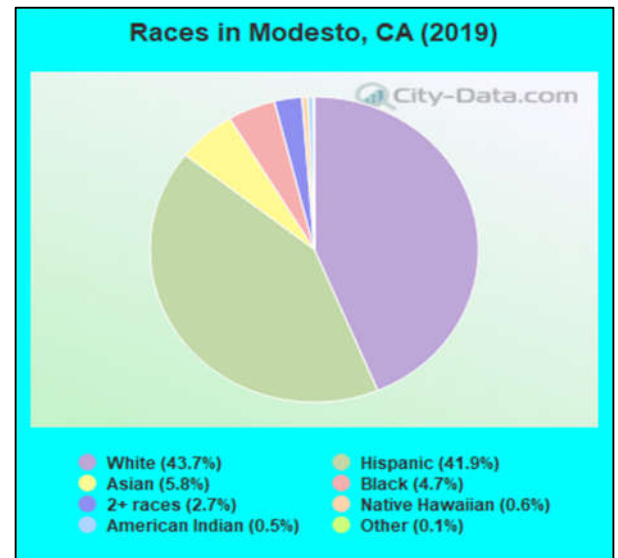


Figure 2b - 2019 Census Data Modesto, California. (2020). City of Modesto



Figure 3 - QuickFacts - Key population characteristics of the City of Modesto in Stanislaus County

We gleaned from these data that, overall, both equity and non-equity cannabis businesses can benefit from the high unemployment rate to tap into a properly trained workforce and increase community reinvestment as an additional major employer. Cannabis presents an opportunity to enhance all the sectors listed in the Employment Data shown above in Figure 2a. Also, these businesses can benefit from the locational value of the area as a Central Valley transportation hub. Equity businesses in particular can learn from the experience and expertise shared by successful non-equity businesses that are currently operational in Modesto to bypass costly mistakes on the way to operating profitable businesses that provide employment, contribute to tax revenue, and enhance the means to reinvest in their own communities.

## Section 4. EQUITY ANALYSIS

This analysis of equity addresses current conditions among people and communities criminalized in the City of Modesto and devastated by the War on Drugs. The data serves to identify individuals and neighborhoods targeted by enhanced law enforcement against drug users and drug related crimes. In the Assessment, we focused on the self-identified victims of the War on Drugs who currently seek to become licensed owners or operators of legal cannabis businesses and ancillary businesses within the City of Modesto. Under this analysis, the term “equity” refers to fairness and justice, as distinguished from “equality”: As defined by the National Association of Colleges and Employers, “Whereas equality means providing the same to all, equity means recognizing that we do not all start

from the same place and must acknowledge and make adjustments to imbalances”.



Figure 3b – Equality Vs. Equity This Photo by Unknown Author is licensed under CC By NC-JR

#### 4.1 Methodology

The goal of this Assessment is to provide a data-informed look at the impacts of cannabis criminalization and the War on Drugs on communities in the City of Modesto. The CEA effort focused on direct community interaction based on the UCLA Community Based Assessment model (see references in Section 8 below.) It was conducted by The Brenda Davis Law Group team with assistance from the NAACP and city staff to attain firsthand accounts and feedback from a multicultural mix of the populations disproportionately impacted by the War on Drugs. Means of engaging feedback included outreach via emails, phone calls, text messages, social media, and in-person activities. The City of Modesto also set up a cannabis equity assessment webpage, a dedicated phone line and email responder and added community forum dates to its public events calendar.

The team collected data by the following means:

- Two bilingual surveys, one baseline and one secondary, conducted via SurveyMonkey, the first beginning in May 2022 and the second beginning in July 2022
- Two community forums that hosted a total of 86 attendees convened on June 17 and July 21, 2022
- Thirteen lived experience interviews conducted on July 9 and 23, 2022

- o Four focus groups engaged on July 21, 2022



Police SWAT Team Drug Raid in West Side Modesto, California (Special Weapons & Tactics Team) July 21, 2014, United States Broadcasting

## 4.2 Impacts of Cannabis Criminalization in the City of Modesto

The War on Drugs significantly impacted communities in the City of Modesto; more specifically, the criminalization of cannabis. It is a rural city with a diverse community anchored in the agricultural and service industries. The correlation between drug-related enforcement and people residing in the poorest, most ethnically diverse neighborhoods directly impacted those individuals and families economically. California began to impose harsher sentencing for drug offenses beginning in 1881, as shown in Figure 4a, and what followed was based on a collection of biases and myths. Patterns of

California Drug Sentences							
Year	Crime	1st Conviction		2nd Conviction		3rd Conviction	Notes
		dollars*	time	dollars	time		
1881	maintain or visit a place to smoke opium	0-500	0-6m				
1907	sell/offer morphine, heroin, opium, cocaine	30 +	**15g +				
1909	sell/offer or possess same	100-250	0-100d	250-500	0-200d	1-5y	add opium pipes (1911), cannabis (1913)
1915	sell/offer or possess drugs, pipes	100-400	50-180d	250-500	90d-6m	1-5y	
	sell/offer		180-365d		1-5y		
1921	possess	0-200	0-90d		1-5y		add hypodermic needles
	employ minor		1-5y				
	sell/offer		6m-6y		1-10y		
1925	possess		0-6y		0-10y		penalty for employing a minor increased to 1-6y for first conviction (1933)
	employ minor		1-5y		6y +		
	possess (all others same)		0-6y		6m-10y		
1929	maintain or visit a place to smoke opium, cannabis						Narcotic Act
	narcotics addict is a vagrant	0-500	0-6m				
1939	narcotics addiction		3-6m				trial court forbidden to grant probation or suspend sentence (all drug violations)
	employ minor or sell/offer to minor		5y +		10y +		
1953	sell/offer/transport		0-15y		5-25y		with previous conviction, trial court forbidden to grant probation or suspend sentence; addict to be placed on probation for 0-5y & serve at least 90d
	possess any drug or grow cannabis, peyote		0-10y		2-20y		
	narcotics addiction		90d-1y				
1954	sell/offer/transport		0-life		10y-life		
	possess narcotic other than cannabis		2-10y		5-20y	15y-life	
	possess for sale narcotic other than cannabis		5-15y (parole in 2.5)		10y + (parole in 6)	15y +	
	sell/offer/transport/import narcotic other than cannabis		5y-life (parole in 3)		10y-life	15y-life	
1961	possess or grow cannabis		1-10y		2-20y	5y-life	unless noted, must serve minimum before parole can be granted; fine up to \$20,000 can also be levied but not in lieu of time
	possess for sale cannabis		2-10y		5-15y	10y-life (parole in 6)	
	sell/offer/transport/import cannabis		5y-life (parole in 3)		5y-life	10y-life	
	employ minor or sell/offer to minor		10y-life (parole in 5)		10y-life	15y-life	
	under 21 employ minor or sell/offer to minor		5y +		10y +		

\*fine, sentence, or both could be applied (anywhere a fine appears)

\*\*neither maximum nor life specified (anywhere '+' appears)

Figure 4 - "Central Valley California High Intensity Drug Trafficking Area." *Drug Market Analysis 2010*

misinformation began to spread which insisted that opiates, cocaine, and cannabis were equally dangerous, led to other crimes and were sold and used by immigrants and other despised groups.

As cultivation of Marijuana began to expand within the United States, the Drug Enforcement Administration (DEA) began a Domestic Cannabis Eradication and Suppression program in 1979 with only two states participating, California and Hawaii. According to a DEA 1975-1980 report “In 1979, an estimated 10-15,000 tons of marijuana were consumed in the US. It is believed that up to 10 percent of that amount was cultivated in U.S., a majority from California and Hawaii.” Modesto was an early transport hub for cannabis cultivation in the early 1980s. These routes were mostly controlled by Mexican drug trafficking organizations. Congress passed federal mandatory minimum sentencing legislation in 1986 which significantly intensified the War on Drugs.

As part of this heightened attention to drug law enforcement, the National Drug Intelligence Center (NDIC) was established by the Department of Defense Appropriations Act, 1993 (Public Law 102-396), signed into law on October 6, 1992. The NDIC was placed under the direction and control of the U.S. Attorney General. The militarization of local law enforcement agencies, particularly as related to drug offenses, was now in full swing. California’s AB 971, which established Three-Strikes sentencing, was signed into law on March 7, 1994. In turn, those sentences produced some of the harshest sentence enhancements applied to felony offenses, more so than most other states. Under Three-Strikes, California law allowed sentences to be doubled for felony offenders regardless of whether the offense was classified as serious or violent.

In 1999, the White House Office of National Drug Control Policy designated the Central Valley a High Intensity Drug Trafficking Area (HIDTA). Prior to that, Modesto was renowned for its agriculture industry. The HIDTA designation allowed for up to \$2.5 million in federal funding each year, plus additional law enforcement tools to combat drugs within the region.

After Three-Strikes, the extra money from the HIDTA designation placed Modesto in the prime position to target communities of color and apply longer and harsher sentences. Figure 4b below demonstrates the statewide consequences of this disproportionate law enforcement financed and encouraged by the War on Drugs. Again, the drug arrests among the “White” population may include Hispanics who identify as such. Most telling is the spectacularly high rate of drug arrests among the “Black” population.

JUVENILE AND ADULT FELONY DRUG ARRESTS BY RACE/ETHNIC GROUP, 1990 & 1999

Number, Percent, Rate per 100,000 Population at Risk, and Percent Change

Race/ethnic group	1990				1999				Percent change in rate 1990-1999
	Percent of population	Number of arrests	Percent of total arrests	Rate per 100,000	Percent of population	Number of arrests	Percent of total arrests	Rate per 100,000	
Juvenile	100.0	8,151	100.0	258.7	100.0	6,587	100.0	170.8	-34.0
White	45.8	1,332	16.3	92.3	43.7	1,779	27.0	105.4	14.2
Hispanic	34.9	2,776	34.1	251.7	36.3	2,802	42.5	200.4	-20.4
Black	8.1	3,530	43.3	1,388.5	7.6	1,628	24.7	552.2	-60.2
Other	11.2	513	6.3	146.0	12.4	378	5.7	79.3	-45.7
Adult	100.0	137,393	100.0	686.0	100.0	126,734	100.0	579.9	-15.5
White	59.3	47,919	34.9	403.4	53.4	50,524	39.9	433.1	7.4
Hispanic	23.9	42,458	30.9	885.2	27.6	40,183	31.7	666.8	-24.7
Black	6.9	42,034	30.6	3,052.2	6.8	31,300	24.7	2,093.1	-31.4
Other	9.9	4,982	3.6	252.3	12.2	4,727	3.7	177.1	-29.8

Note: Percentages may not add to 100.0 due to rounding.

Figure 4b - State of California Office of the Attorney General Bureau of Criminal Information and Analysis Criminal Justice Statistics Center Report Series Volume 2, Number 2 December 2000 Report on Drug Arrests in California, from 1990 to 1999

In 2010, the NDIC published the Central Valley California High Intensity Drug Trafficking Area Drug Market Analysis and reported in the Strategic Drug Threat Development sections that “Cannabis cultivation has increased dramatically in the Central Valley HIDTA region over the past 5 years, making the area one of the most prominent marijuana production areas in the nation.”

The Brenda Davis Law Group team conducted lived experience interviews on July 9 and July 23, 2022, at Christ Unity Baptist Church in Modesto. The lived experience interviews provided the team with local stakeholders’ recollections of how cannabis criminalization affected the City of Modesto. These interviews were conducted within community comfort levels regarding access to gathered data due to overlying federal illegality of cannabis, language and immigration status concerns and the need for formal approval by governing bodies interested in partnering with the City of Modesto.

\* For the sake of privacy, all parties interviewed have been identified by their first and last initial, in addition to current residence zip code.

One testimonial from the interviews paints a picture of despair and ridicule:

*Because of the increase[d] criminalization and the mandatory minimum. I was never given a second chance on life, when I was released back into community. The cannabis possession was a felony, and it was also my identity, that I was unable to escape.*

*Every application I had to identify and check the box that I was previously convicted. ~PP95350*

Another stakeholder we interviewed reflected on her childhood and the lingering trauma in her adult life:

*My mother was arrested for a simple cannabis offense, which was damaging in 1980's. That was the beginning of continued repeated offenses which had her in and out of jail until she passed away. Multiple members of my family have been arrested for cannabis offenses. To see progression of society and how it is accepted... now [I am] hurting because my mom's life was changed due to the criminalization of cannabis. ~RP95368*

As described in another lived experience interview, some arrests resulted in job losses and depleted income:

*I always thought I was within my legal rights, until I found out I wasn't. They took me to jail for a year with a 3-year suspended sentence. When I got out of jail, I couldn't find a job and I lost one year of my life. I lost \$10,000 to bail out of jail, another \$10,000 in attorney fees, a year's worth of wages... so I lost at least \$50,000 and served a hellacious year in jail for something I thought was legal and I had a prescription for. How do I get a year of my life back?  
~JV95350*

Another person we interviewed was visibly shaken while reliving the accounts shared:

*This is hard! We never talk about this stuff...*

[The participant noted that a family member with mental health challenges chose to self-medicate with marijuana and was arrested many times as a result.]

*As a child and even as an adult, my family member was never offered mental health services or treatment. She should have been evaluated and taking [sic] care of instead of criminalized. What's the hope after that? If we understand better, then we could have done better. If it wasn't so secretive my parents could have gotten her more help. If they would have understood that her problems were trauma-based rather than criminal. But they were so ashamed by the stigma around cannabis and how it was criminalized at the time.*

**~FC95307**

Another stakeholder was very matter of fact about the chaos and loss of assets attributable to cannabis related enforcement actions:

*I owned the house and let a friend rent it out. I dabbled a little bit with marijuana, but he was growing marijuana. So, I guess he went and opened up another house and started growing (a different house than mine). About 2 months later the police kicking my door in at my residence and arrest me for manufacturing, distribution, and cultivation. I honestly had nothing to do with my tenant's activities. I was going through a divorce and didn't have the financial resources to fight with an attorney. So, I went on and took charges, that was probably 10 years ago. Now it's legal, but not legal. What's legal? There's a double standard here as to what is legal and what is not. It seems to be setup against us, not for us. It's in our neighborhoods, we're probably the highest paying customer but it seems like my people when it comes to business can't get in it, when it may cost \$50,000 for an application. One or two people own majority of the*

*market. Affordability and information are needed. It's not fair...level the playing field. It's not equality. Whether you're smart or not or have the funds or not they take you through hell. ~EW95354*

One stakeholder currently works in the cannabis industry, but recounted the harsh consequences of trying to run a cultivation business for medicinal uses during the War on Drugs:

*I'm currently working for a dispensary here in Modesto Monday through Friday. In March 2006, my house was raided. I was cultivating cannabis. I was doing it medically but there was a lot of gray area. I was indicted in November that year. My wife (then girlfriend) was also arrested. She was charged, but as a part of my plea deal her charges were dropped and I would take the instead. The Stanislaus County Criminal Grand Jury did the indictment. It was a multijurisdictional task force that originally did the raid. The FBI was involved but states took the case. I was charged with cultivation sales, and I think they added trafficking. I thought I had a good leg to stand on in court because I had paperwork and a well-known cannabis attorney. At that time, he explained to me I was part of the war on drugs and unfortunately so many cases like mine had to happen before the laws would change. He said as much as it was bad hopefully some good would come out of it. Beyond the criminal charges I was charged civically [sic], under asset forfeiture they took our cars, jewelry, anything worth of value. I had to go to court separate for my criminal case and prove that these items were not bought with drug money. One of the vehicles was a gift from the family member and DMV records proved it. It still took a while to get the car back. They took all my wife's' tax money at the time (out of her purse). They froze our accounts. It was really a hardship. We*

*were both scarred and traumatized by the entire experience.*  
~CR95350

Additional interviews highlighted the concepts of stigma and multigenerational trauma, such as, negative effects on household size that were associated with cannabis and being stopped by police and, as a reason, simply being told that the smell of cannabis is present. Also, we learned that the most marginalized areas include the 95350, 95351, 95354, and 95355 zip codes.



Results from two local surveys allowed us additional insight into the complexities of those lives affected by the criminalization of cannabis. The baseline survey demonstrates a correlation between top zip codes for residences in Modesto and city arrest rates in those zip codes, as shown in Figures 5a and 5b.

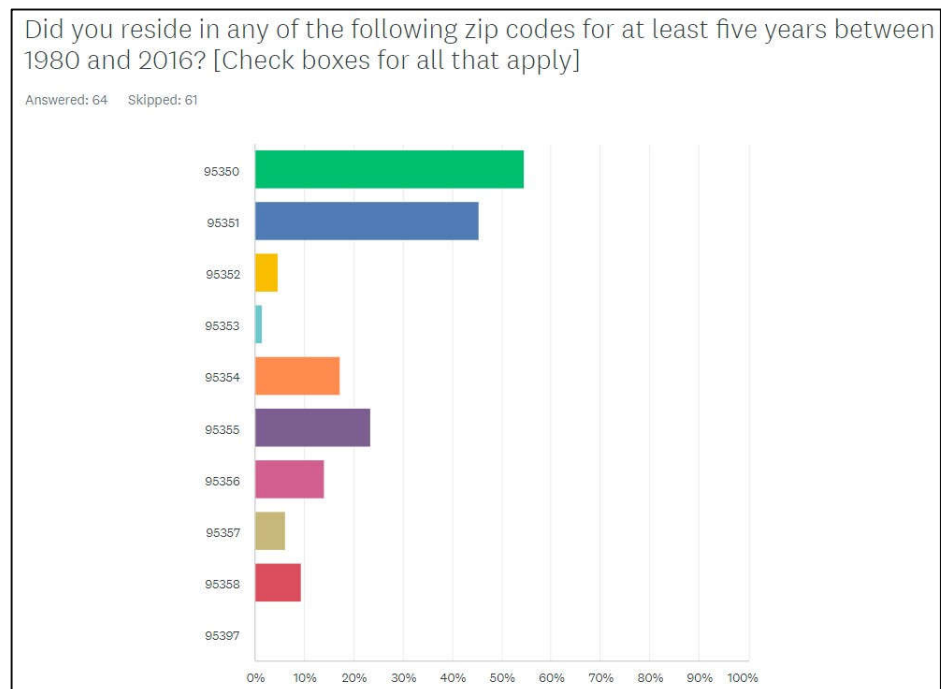


Figure 5a - Modesto Cannabis Equity Assessment Survey #1 Results, Question #2

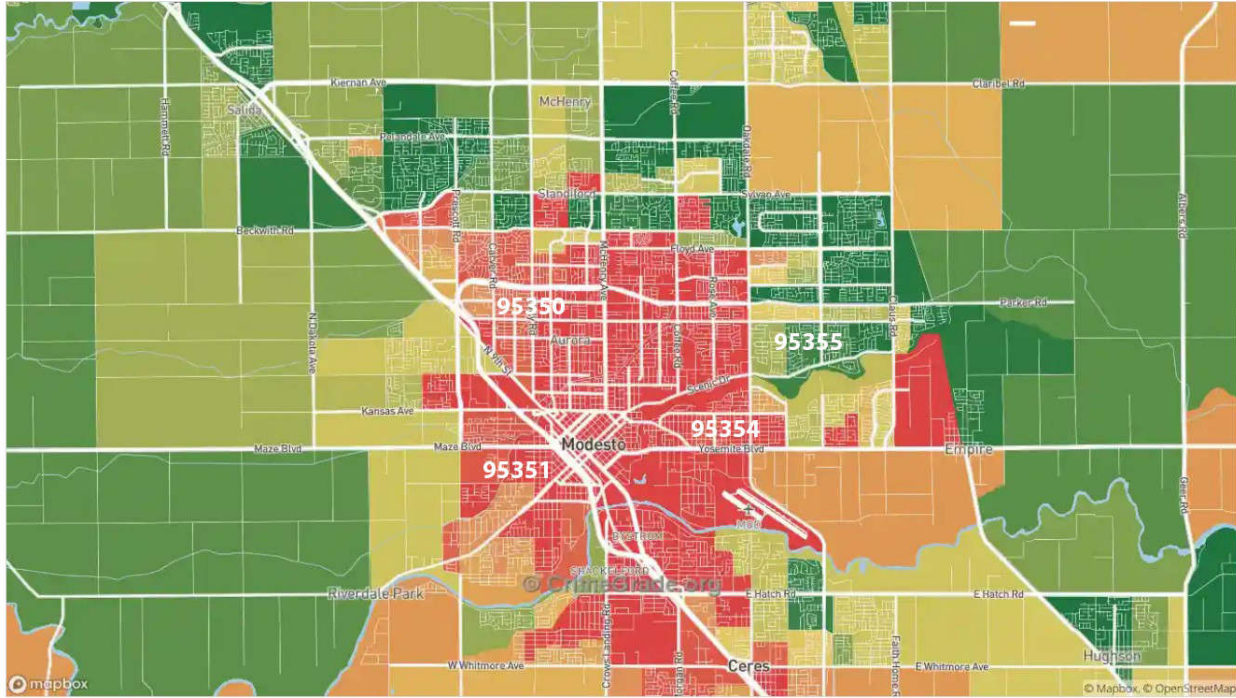


Figure 5b - Drug-crimes-per-capita-map-Modesto-CA, Crime Grade

The second survey reveals 80% of its total respondents experienced arrests or convictions, as shown in Figure 6. All these individuals participated in the lived experience interviews.

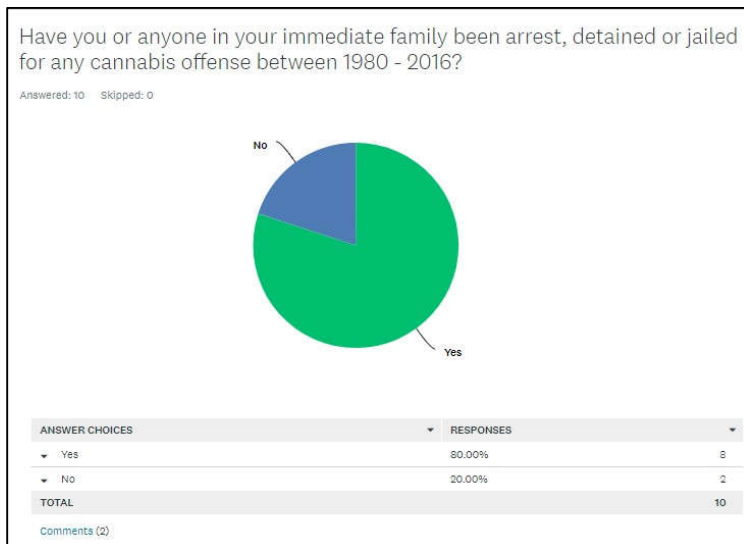


Figure 6 - Modesto Cannabis Equity Assessment Survey #2 Results, Question #8

We observed during the community forums and focus group activities, via comments shared there and during follow up inquiries initiated by various Modesto residents, that the 86 in-person participants represent a strong multicultural impetus to address what the War on Drugs did to their families and neighborhoods. The 125 residents polled expressed a keen interest in having a local equity program that they have a hand in shaping which affords them access to state and local grant funding and

hands-on business guidance and support. The discussion that follows takes a deeper dive into the characteristics common to those who were disproportionately criminalized by drug enforcement policies.

### 4.3 Cannabis, Drug Arrest Rates and Racial Disproportionality in the City of Modesto and Stanislaus County, California

To help illustrate the targeted approach to the War on Drugs within the communities of Modesto, Figure 7 below shows Black people being arrested 3 times more frequently than their White counterparts within the city’s jurisdiction. Blacks were arrested at a rate of 29% while making up less than 5% percent of the city’s population.

Law Enforcement Agency	Black to White Arrest Ratio (x)	Black to White Margin of Error (+/- )	Black Arrest Rate
Huntington Beach	5.58	0.46	152.93
Indio	18.37	4	36.96
Inglewood	2.41	0.11	101.38
Irvine	3.18	0.21	28.71
Livermore	6.35	0.89	12.86
Long Beach	8.15	0.1	306.54
Manteca	3.95	0.29	178.9
Merced	9.35	0.43	35.93
Milpitas	5.78	0.6	18.8
Modesto	2.87	0.11	29.54

Moreno Valley	3.49	0.09	15.45
Mountain View	8.26	0.79	94.19
Murrieta	2.52	0.18	10.15
Napa	12.46	2.01	34.95
Newport Beach	12.43	2.6	421.83
Oakland	25.45	0.29	15.13
Oceanside	1.57	0.21	0.37
Ontario	1.96	0.09	26.09
Orange	7.21	0.44	82.88
Oxnard	1.65	0.1	16.29
Palo Alto	26.22	3.01	105.76
Pasadena	8.99	0.21	230.71
Perris	2.35	0.16	24.48
Pittsburg	2.42	0.08	210.94
Pleasanton	0.77	0.28	1.84
Pomona	4.36	0.12	94.83
Redding	5.99	0.4	111.87
Redlands	5.65	0.49	32.31
Redondo Beach	6.46	0.62	209.94
Redwood City	12.06	1.17	40.72
Rialto	2.17	0.11	9.22

Figure 7 – “When the Smoke Clears Report.” *Racial Disparities in California’s Marijuana Arrests*

For Stanislaus County, between the years 2000 and 2016, the rate of cannabis arrests increased to more than 300%, as shown in Figure 8a below. The cannabis and drug arrest rates relative to population size, also shown in Figure 8a, are noticeably higher in Hispanic or Latino, and Black or African American communities.

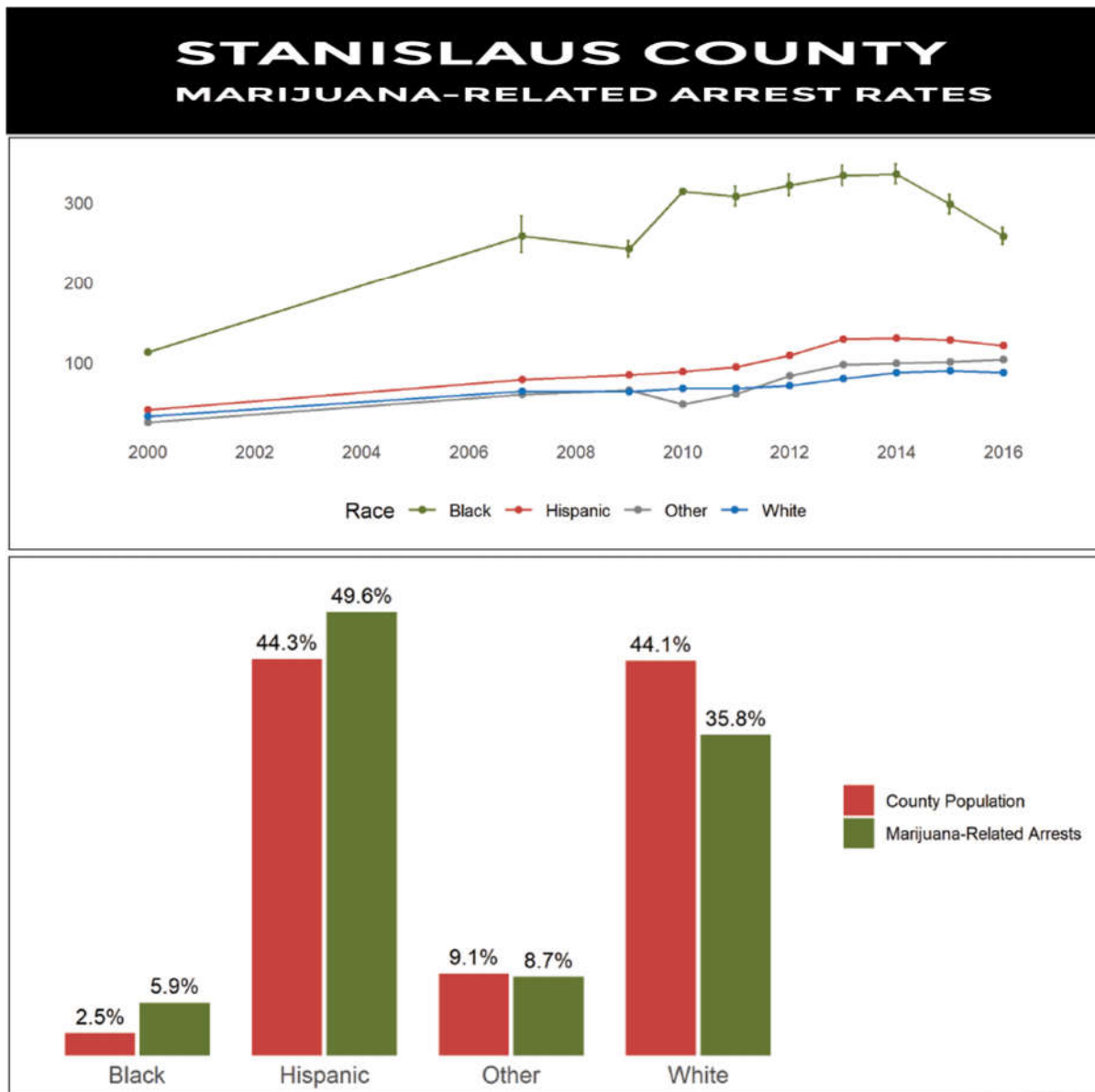


Figure 8a - "When the Smoke Clears Report." *Racial Disparities in California's Marijuana Arrests*

We also requested Modesto and Stanislaus County demographic data for drug related arrests between the years 1980 and 2016 from the California Department of Corrections and Rehabilitation (CDCR).

We reviewed arrest data for Stanislaus County from the UC Davis report on racial disparities, as shown in Figure 8a above, and CDCR's response to our information request on arrests and convictions. While Figure 8a takes into account the census data for Stanislaus County during the 16-year period 2000 to 2016, the data provided by CDCR presents a bigger picture. CDCR reported data from 1980 to 2016, over 30 years of information, and focused on convictions by race.

### Racial makeup of Stanislaus County

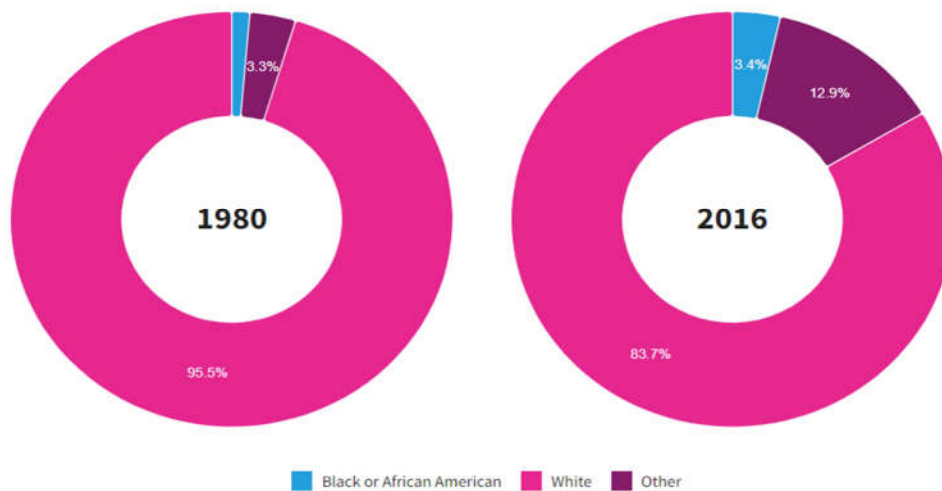


Figure 8b – California Department of Corrections and Rehabilitation Stanislaus County Percentage of Convictions by Race

Currently, Stanislaus County is more diverse than it was in 1980. As shown in Figure 8b, in 2016, the White population made up 83.7% of the population compared to 95.5% in 1980.

Between 1980 and 2016, the share of the population classified as Other grew the most, increasing by 9.6 percentage points to 12.9%. The Black population increased from 1.2% in 1980 to 3.4% in 2016. The CDCR data provided a breakdown of Stanislaus County marijuana related convictions by raw numbers. Figure 8c below shows the percentage of convictions among populations of Whites, Hispanics, and Blacks, among others.

While representing only 3.4% of the county's population in 2016, Black residents accounted for 11% of marijuana related convictions within the county between 1980 and 2016; nearly 3 times their population. This conviction rate supports the conclusion that arrests and convictions were higher within Black communities relative to population size.

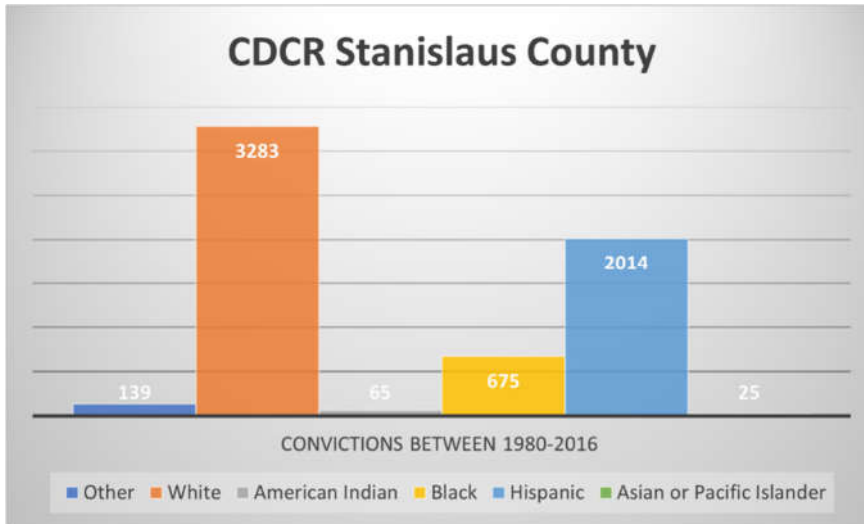


Figure 8c - California Department of Corrections and Rehabilitation - Stanislaus County Percentage of Convictions by Race/Ethnicity

\*Rounded to the nearest percentages



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## Section 5. COMMUNITY PROFILE BASED ON CURRENT CONDITIONS IN THE CITY OF MODESTO

The United States Census Bureau 2019 Community Resilience Estimates (CRE) indicate the City of Modesto has high-risk factors for families in East, West, and South Modesto communities. The individuals and communities disproportionately harmed by cannabis prohibition commonly face challenges to resilience, such as, criminal records, poverty, housing instability, household size reduction, inadequate health care options, and an inability to avoid or absorb the external stresses of a disaster. These factors produce ongoing educational, economic, and psychosocial impacts on residents of the City of Modesto.

The CRE data set provides information about the nation, states, counties, and census tracts from three different data sources. These sources include the CRE, the ACS, and the Census Bureau's Planning Database. Providing all this information in one data set affords the City of Modesto quick access to the data on a variety of topics concerning social vulnerability and equity, as shown below in Figure 9.

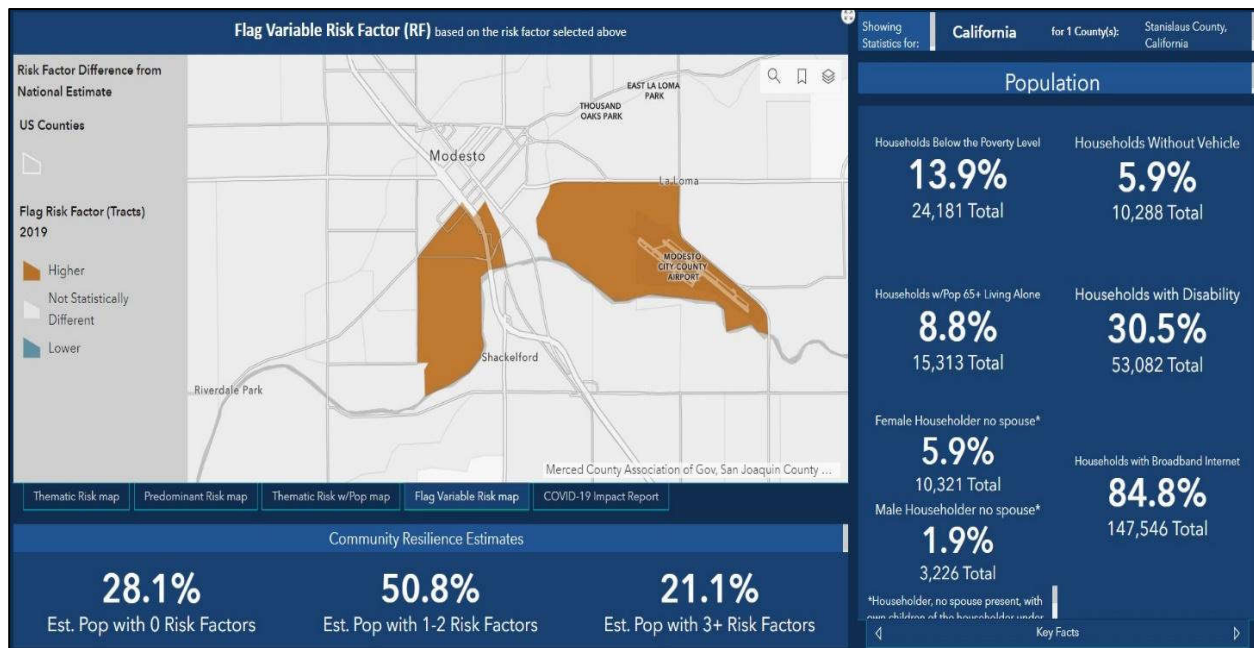


Figure 9 - 2019 Community Resilience Estimates for Equity and Disasters

The CRE program provides an easily understood metric for how at-risk every county and neighborhood (census tract) in the United States is to the impacts of disasters, including hurricanes, floods, earthquakes, wildfires, and pandemics, such as COVID-19. Modeled estimates are based on 10 resilience-related risk factors.

These estimates were modeled using 2019 ACS 1-year microdata, the Census Bureau's Population Estimates Program (PEP), as well as small area modeling techniques. They revealed the number and percentage of residents living with 0 risk factors (Low Risk), 1-2 risk factors (Moderate Risk), and 3 or more risk factors (High Risk).

Modeling of individual and household characteristics from the 2019 ACS, in combination with data from the PEP, was used by the Census Bureau to create the CRE. Risk factors from the 2019 ACS include:

- Income to Poverty Ratio
- Single or Zero Caregiver Household
- Crowding
- Communication Barrier
- Households without Full-time, Year-round Employment
- Disability
- No Health Insurance
- Age 65+
- No Vehicle Access
- No Broadband Internet Access

CRE data indicate, considering the 10 risk factors listed above, over 70% of the Modesto population is facing a moderate to high vulnerability and impact rate. While this high risk, low resiliency profile is troubling, it underscores opportunities for improvement through cannabis as a recent and promising source of economic growth.



Community gathering [This Photo](#) by Unknown Author is licensed under [CC BY-SA-NC](#)

## 5.1 Community Profile

The baseline survey respondents gave us a snapshot of the most at-risk Modesto residents, as shown in Figure 10.

Currently, over 24,000 residences live below the poverty level in the City of Modesto. Survey results revealed over 50% of residents who responded to the specific question

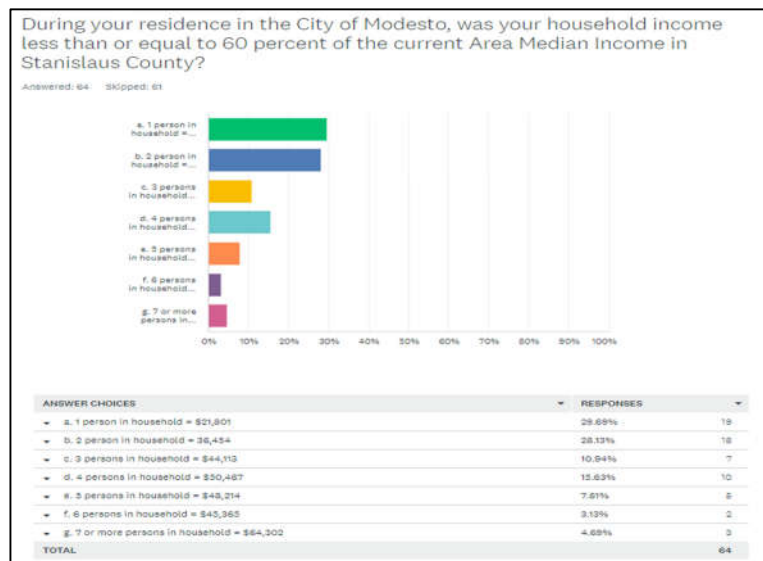


Figure 10 - Modesto Cannabis Equity Assessment Survey #1 Results, Question #4

had household income less than or equal to 60% of the current Area Median Income in Stanislaus County.

Among the 125 residents polled, we received 64 responses to the baseline survey which provided further illumination of the high household poverty rate in Modesto. As shown in Figure 11a, over 70% of respondents who answered the specific question were participants in one of the listed government assistance programs for low-income households.

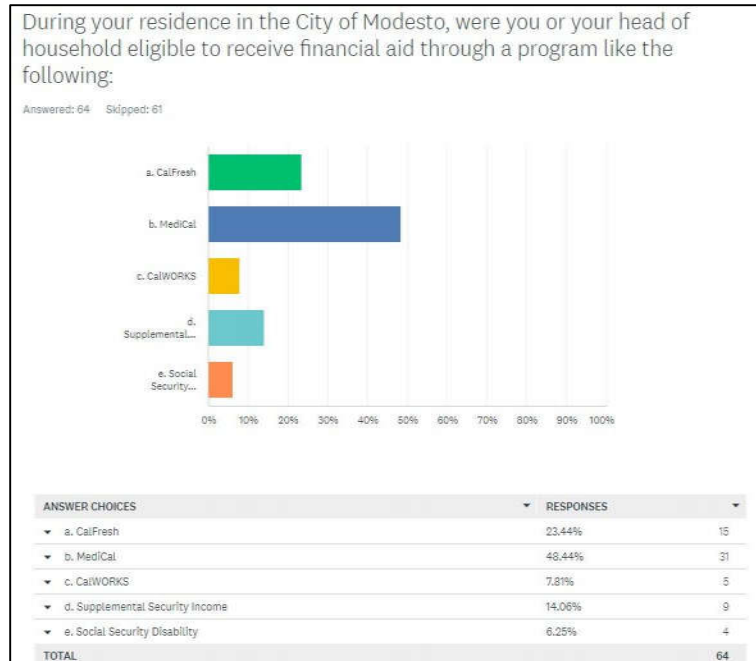


Figure 11a - Modesto Cannabis Equity Assessment Survey #1 Results, Question #5

We used the information we gathered to compile a community profile for the Assessment, including public sources, such as U.S. Census data, Modesto and Stanislaus County drug crimes data and alternative sources of information, such as the CDCR and the HIDTA report, for all arrests and convictions for the sale, purchase, possession, and/or consumption of cannabis prior to November 8, 2016 (Prop 64) (when adult use of cannabis was legalized statewide.) To round out the Assessment in areas where quantitative data were unavailable or underreported, we also developed a means to gather qualitative information, using surveys, community forums, focus groups, and lived experience interviews to enhance the community profile.

This profile consists of the following components:

A. Risk factors from the 2019 ACS:

CRE data indicate, considering the 10 risk factors listed below, over 70% of the Modesto population is facing a moderate to high vulnerability and impact rate.

- Income to Poverty Ratio
- Single or Zero Caregiver Household
- Crowding
- Communication Barrier
- Households without Full-time, Year-round Employment
- Disability
- No Health Insurance
- Age 65+
- No Vehicle Access
- No Broadband Internet Access

The City of Modesto should address many of these risk factors for the most at-risk populations through a LCEP that provides new or expanded business opportunities, access to a trained workforce and tax revenue for community reinvestment.

B. Survey questions and responses:

Using the State of California's equity criteria as a guide, we formulated several survey questions to provide feedback from online responses and encouraged participation through various means, including the City of Modesto's website, emails, text messages, phone calls, social media, flyers, and other on-site communications at community forums convened by us and community partners like the NAACP.

1. Have you or anyone in your immediate family been arrested, detained or jailed for any cannabis offense between 1980 and 2016? The second survey reveals 80% of its total respondents experienced arrests or convictions, as shown above in Figure 6. All these individuals participated in the lived experience interviews.

2. During your residence in the City of Modesto, was your household income less than or equal to the current Area Median Income in Stanislaus County? Currently, over 24,000 residences live below the poverty level in the City of Modesto. Survey results further revealed over 50% of residents who responded to the specific question had household income less than or equal to 60% of the current Area

Median Income in Stanislaus County.

3. During your residence in the City of Modesto, were you or your head of household eligible to receive financial aid through CalFresh, MediCal, CalWORKS, Supplemental Security Income, or Social Security Disability? Among the 125 residents polled, we received 64 responses to the baseline survey which showed the high household poverty rate in Modesto. As shown above in Figure 11a, over 70% of respondents who answered the specific question were participants in one of the listed government assistance programs for low-income households.

4. Did you reside in any of the following zip codes between 1980 and 2016? The baseline survey demonstrates a correlation between top zip codes for residences in Modesto and city arrest rates in those zip codes, specifically, 95350, 95351, 95354, and 95355, as shown above in Figure 5a.

These responses suggest a distinct population of Modesto residents who would benefit from an equity program that addresses the fallout from the War on Drugs.

C. Arrests and convictions for drug related offenses:

Blacks in Modesto were 3 to 4 times more likely to be arrested for drug felonies prior to 2016. Despite a steep decline in cannabis related arrests after 2016 and the onset of MAUCRSA (see Figure 1a above), the negative impact of criminalization on housing, employment, family stability, and access to supportive services is ongoing. We learned from community feedback that it continues to be amplified among Black and Hispanic populations in the 95350, 95351, 95354, and 95355 zip codes.

D. Lived experience interviews:

Thirteen community volunteers participated in confidential lived experience interviews on July 9 and July 23, 2022, at Christ Unity Baptist Church in Modesto. They shared recollections of how cannabis criminalization affected their lives, families and neighborhoods

in the City of Modesto. These interviews highlighted the need for an equity program to help individuals overcome stigma and family trauma, understand the law and how it applies now, get back on their feet as contributing members of their families and communities, and reestablish a sense of belonging.

E. Community forums and focus groups:

We were able to provide community education and engagement on what cannabis social equity looks like and receive input at two well attended Community Orientations held on June 17, 2022, at the King-Kennedy Memorial Center and July 21, 2022, at Christ Unity Baptist Church. Attendance at both forums was multicultural and revealed a keen interest in having a program in the City of Modesto among the 86 participants. The attendees raised concerns that were echoed in the survey responses and lived experience interviews on a more intimate level. Using the worksheet shown in Figure 13, we were able to actively engage the community members in defining equity and suggesting ways to meet community needs to overcome barriers to entry into the legal cannabis business.

Based on this community profile, the hardest hit areas by zip code were 95350, 95351, 95354 and 95355. These areas also coincide with higher populations of Blacks and Hispanics, low-income neighborhoods, and drug related arrests.

## Section 6. Overview of the City of Modesto's Cannabis License Process & Applicants

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Title 10 of the Modesto Municipal Code governs “Commercial Cannabis Uses” and designates areas zoned for cannabis permitted operations. The application process has two phases: Phase 1 covers background checks and zoning clearances; Phase 2 covers all other permitting requirements, as detailed in [Ordinance Number 3684-C.S.](#) This ordinance became effective on February 15, 2018. The application process checklist and schedule of fees can be found on the City of Modesto's website.

As of June 30, 2021, the City of Modesto has earned \$5,379,402 from Cannabis Taxes, according to its fiscal year 2020-2021 budget actuals. The city currently allows medicinal and recreational sales of cannabis through a limited number of retailers, but there are no restrictions on the number of Non-Retail Commercial

businesses. Modesto now has about 8 approved retail permits. As of December 20, 2021, Modesto city staff reported about 18 approved businesses, some of which are non-operational, as shown in Figure 11b. According to California Department of Tax and Fee Administration (CDTFA) reports, in 2021, Stanislaus County reported \$161,591,171.00 in Total Taxable Sales. The Stanislaus County Board of Supervisors allows for 61 total Commercial Cannabis Business Licenses.

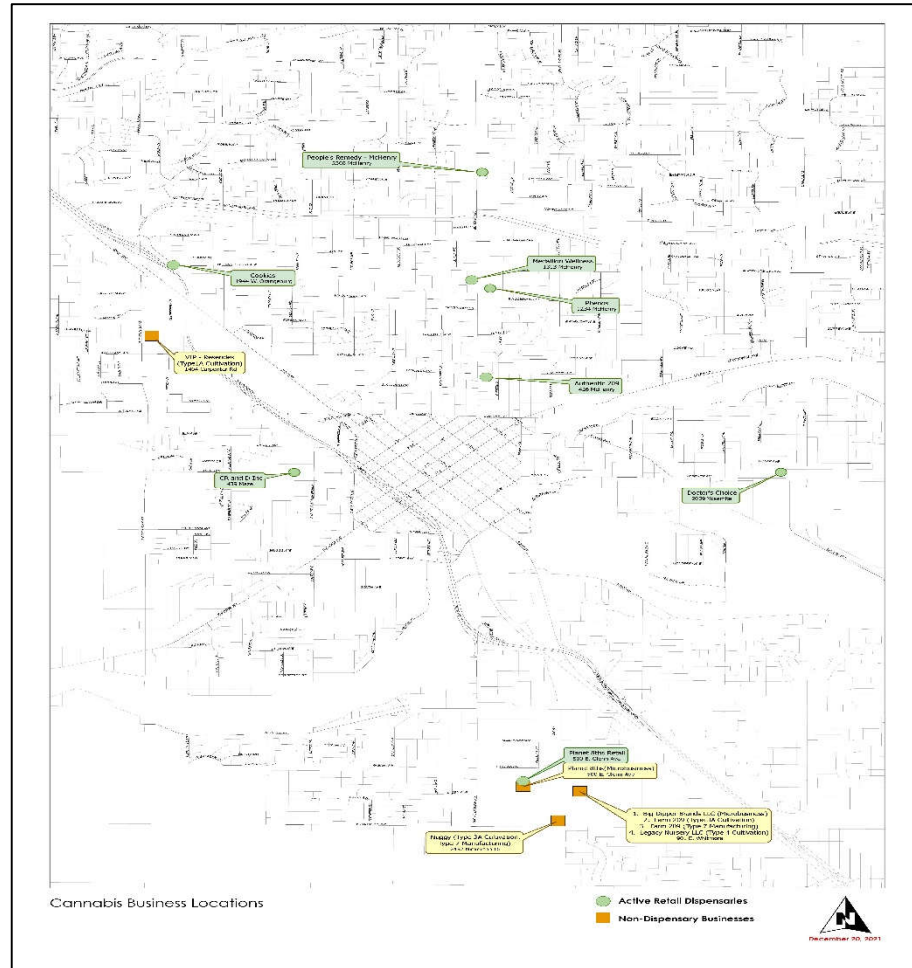


Figure 11b.- City of Modesto Cannabis Business Locator

The statewide rules for sale, use and possession of cannabis are outlined below and apply in addition to any stricter limitations imposed by local jurisdictions:

**18+ Medicinal Use** - If you have a physician's recommendation to use cannabis, you can:

- Buy cannabis products with more THC

- Buy more cannabis at a time, if needed for your medical condition
- Possess more cannabis
- Grow more plants at home, if needed for your medical condition
- Get a medical marijuana ID card (Even with a physician's recommendation, you must follow laws about where you can use cannabis)

**21+ Recreational Use** - Adults aged 21 and older may:

- Possess up to 28.5 grams (about one ounce) of cannabis and up to 8 grams of concentrated cannabis, such as hash
- Use cannabis on private property but cannot consume cannabis in any public place where a city or county does not allow it
- Cannabis cannot be consumed or possessed on federal lands, such as national parks
- Property owners and landlords may also ban the use and possession of cannabis on their properties
- Don't Consume & Drive - Driving while under the influence is illegal. It doesn't matter what substance you are using. If you are not sure whether you are impaired, do not drive.

## Section 7. Barriers to Entry

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### What We Did – Research and Outreach

At the outset of this Assessment effort, The Brenda Davis Law Group team attempted to find and use arrest data in the analysis of who was disproportionately harmed by the War on Drugs in Modesto and what can be done to redress it. We pursued access to expunged police data and alternative sources of information for all arrests and convictions for the sale, purchase, possession, and/or consumption of cannabis prior to November 8, 2016 (Prop 64), when adult use of cannabis was legalized statewide. To round out the Assessment in areas where quantitative data were unavailable or underreported, we also developed a means to gather qualitative information, using

surveys, community forums, focus groups, and lived experience interviews to enhance the community profile.

#### What We Learned – Areas of Need

Community input identified the following needs to overcome barriers to entering the legal cannabis business in Modesto:

### **I. Education and Technical Training**

- A. Need for public education on cannabis to provide facts, remove stigma and shame and help people overcome fears; show legal side of business in ways in which people can understand the Dos and Don'ts and feel safe sharing information and supporting the existence of legal businesses (e.g., confidential communications, protected files). For example, equity community members suggested handing out business cards with QR Codes that contain basic informational fact sheets about legal cannabis statewide and direct potential equity applicants to a dedicated source of up-to-date information on opportunities available in Modesto; employ methods of communication that require minimum technical ability to gain access.
- B. Need for access to ownership opportunities through affordable permits and licenses and clear, simplified instructions on how to become a legal cannabis operation (e.g., Frequently Asked Questions, infographics that diagram the permitting steps, land use and building code documentation requirements and review timelines). For example, equity community members suggested simple step by step guides and infographics could be posted on the website set up by the City of Modesto for this Assessment and accessible via QR Codes to show at a conversational level the opportunities available, potential timelines and the range of costs for entering the cannabis business. To help address community sensitivities around language, immigration status and gaps in technical proficiency, the community partners identified during this Assessment should be actively engaged as trusted resources.
- C. Need for skills training in how to plan for, start up and run a business (e.g., business planning and development fundamentals). For example, equity community members want to be coached by subject matter experts on how to progress from an idea to a

workable plan for a business. They also want to be taught the essential technical and financial components of business ownership and how to use their transferable skills to advance from opening day through maintaining legal operations over the course of their 3-year, 5-year or longer planning horizons.

## II. Community Reinvestment

- A. Need for California Community Reinvestment Grants Program (CalCRG) and similar types of opportunities in Modesto to reinvest in communities hardest hit by the War on Drugs and provide access to youth and adult services (skills training, recreational activities, *etc.*), drug prevention and treatment services (*e.g.*, access to grant writing services, workshops on creating and maintaining a nonprofit). For example, the City of Modesto's resources, such as its website, social media posts and text messaging are critical to alert equity community members on timelines for participating in the latest round of CalCRG grant solicitations. Also, the City of Modesto should designate funding for similar community services to be provided by local organizations and funded locally by either cannabis fees or taxes paid by non-equity participants generally and equity participants once sufficiently profitable.
- B. Need to focus on families to help heal the traumas of drug related arrests and convictions and overcome the loss of a sense of belonging to a community (*e.g.*, Insight Treatment Programs: <https://insighttreatment.com>). For example, the City of Modesto should plan and schedule community activities that encourage family participation at parks and other public venues staffed by the City of Modesto and community partners. These events must include information kiosks and tables that tell the community about available drug treatment and prevention services and how to gain access to these resources.

## III. Access to Capital

- A. Need for stable sources or means of financing local small business operations, including location assistance for commercial properties in the hardest hit communities (*e.g.*, information clearinghouse available online and via local free community papers). For example, equity community members want the City of Modesto to assist them with

zoning requirements, smart investments and finding local real estate that adds value to the community and grows their profitability.

- B. Need for access to and training on means of building personal sources of financing for small businesses, such as home ownership, asset acquisition and other foundational sources of wealth (e.g., information clearinghouse and mentoring services on identifying, valuing, and maintaining property in various forms). For example, the City of Modesto should educate equity community members on the fundamentals of business finance, such as pro formas, budgets, profit, and loss statements and how to leverage assets for business purposes. It is also imperative that the City of Modesto explain the details of handling cash without access to traditional banking resources.

#### What Should Come Next and Why – Being Attentive and Responsive

This Assessment provides the City of Modesto with a community profile that shows devastating effects that linger to this day in its underserved communities where Census data shows high crime rates, poverty, and elevated risk factors for inability to recover from disasters of any kind. The harm caused by the War on Drugs is very evident in the hardest hit communities even with limited quantitative data. The

qualitative data collected by The Brenda Davis Law Group team helps put faces and families into the picture. We identify ways to address cannabis inequities by providing a business driven response to solving these problems and make specific recommendations on what would be most useful to the local equity community in Section 8 below.



Modesto Water Tower [This Photo](#) by Unknown Author is licensed under [CC](#)

## Section 8. Cannabis Equity Program Recommendations

In March and April of 2022, the City of Modesto and The Brenda Davis Law Group team coordinated on various strategic planning efforts, designed a work plan, and began developing tools for building a community profile and engaging individuals and organizations in impacted neighborhoods. We designed this profile to assist the City of Modesto in identifying who should be served and the barriers to entering the legal cannabis market. We then worked with identified stakeholders to outline the array of benefits the city should consider for Program Development of the LCEP

In May, June and July of 2022, the City of Modesto and The Brenda Davis Law Group team further developed a framework for addressing historical impacts of cannabis prohibition on people and neighborhoods disproportionately marginalized by prior cannabis criminalization policies in the city. This framework addresses several key points and includes defining equity, setting eligibility criteria, and addressing common barriers to entry that emerged from extensive multicultural outreach and feedback, including community member surveys, community orientation meetings, lived experience interviews, and focus group activities.

In July of 2022, The Brenda Davis Law Group continued to move forward with collecting data. The community defined equity and presented issues that we grouped into three common themes for the City of Modesto to potentially address: 1) the need for education and training on local and state cannabis requirements and business development for both industry and ancillary businesses; 2) support for community reinvestment in youth and adults regarding prevention, treatment and trauma related health challenges due to the War on Drugs; and 3) assistance with access to capital from legally available sources. Figure 12a outlines the parameters of the community discussion about defining equity.

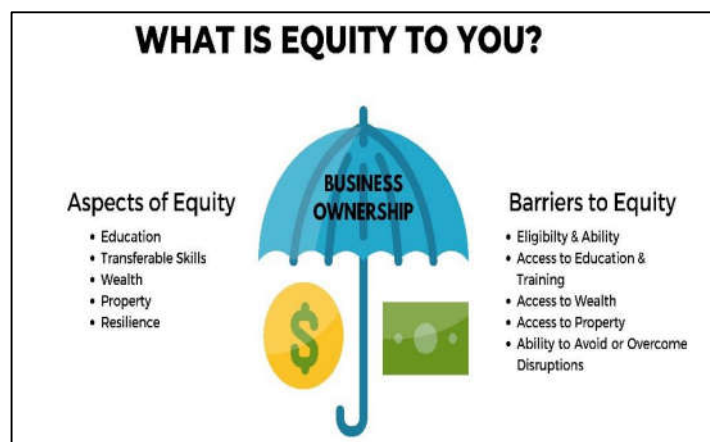


Figure 12a - Modesto Cannabis Equity Assessment Focus Group Activity

## I. Community Defined Equity

The City of Modesto and The Brenda Davis Law Group team continued moving forward on developing the equity program framework. We set discussion parameters (see Figure 12a) focusing on the overarching goal of increasing equity business ownership by defining equity and identifying specific barriers to entering the legal cannabis market as well as ancillary businesses. At the second Community Orientation on July 21, 2022, we engaged participants in a group setting that resulted in multicultural interaction in person and additional data via the second online survey.

A. Focus Groups – On July 21, 2022, The Brenda Davis Law Group team convened 4 Focus Groups and had them complete worksheets designed to elicit their definition of equity and the barriers to entry into the legal cannabis business. The community interaction was multicultural and very lively, as pictured below.



Figure 12b - Modesto Cannabis Equity Assessment Focus Group Activity Photographs

B. Survey Responses - Participating residents shared their views on local equity via the following responses shown in Figures 13 and 14 below.

What is your definition of equity?		
Respondent ID	Response Date	Responses
1.18085E+11	Jul 23, 2022, 10:52 AM	Payback for unnecessary arrest
z1.18084E+11	Jul 21, 2022, 07:24 PM	Equal for all
1.18084E+11	Jul 21, 2022, 07:22 PM	Financial wealth
1.18084E+11	Jul 21, 2022, 07:21 PM	Something that holds value
1.18084E+11	Jul 21, 2022, 07:18 PM	Property
1.18084E+11	Jul 21, 2022, 06:32 PM	Inclusive
1.18084E+11	Jul 21, 2022, 06:23 PM	Value of something. I have equity in my home and as I know that is the value of the home in which I do not have debt from the loan.
1.18084E+11	Jul 21, 2022, 06:23 PM	Equity in business is basically your assets not including your debt/liability of what you might owe others
1.18084E+11	Jul 21, 2022, 06:11 PM	Being completely fair by giving people all the information and access to perform a task or make a decision; access an opportunity.
1.18084E+11	Jul 21, 2022, 03:45 PM	Business mentoring, access to capital, access to commercial property

Figure 13 - Modesto Cannabis Equity Assessment Survey #1 Results, Question #10

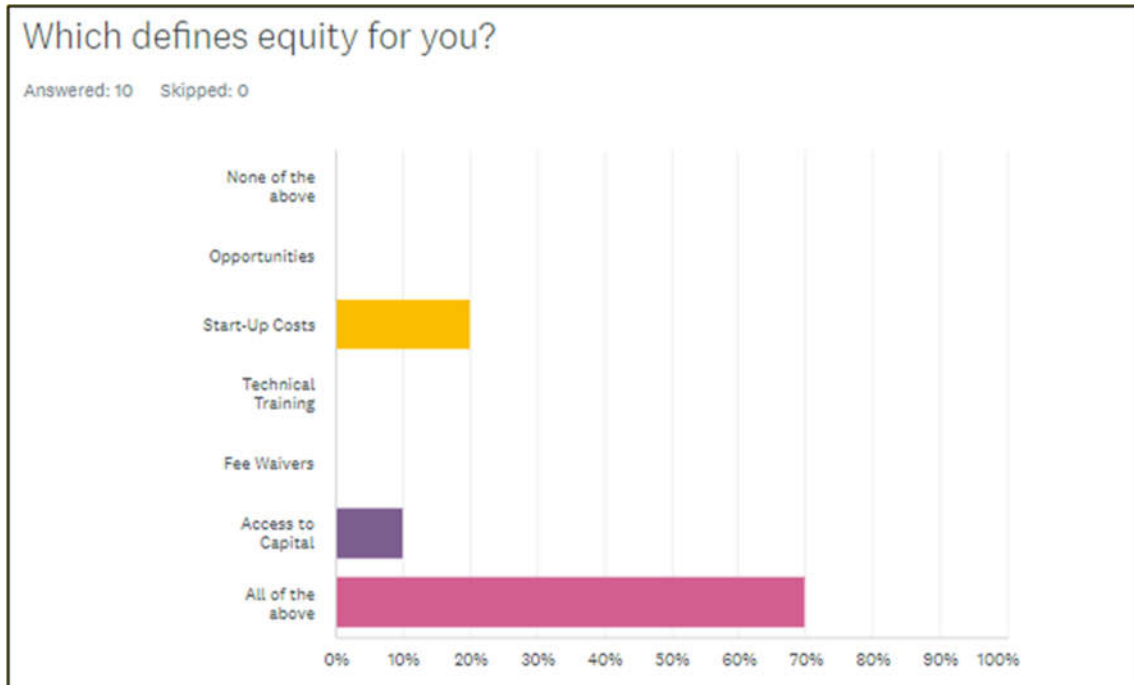


Figure 14 - Modesto Cannabis Equity Assessment Survey #2 Results, Question #12

The community defined equity as all of the above options 70% of the time, as shown in Figure 14. They also emphasized local and state assistance with start-up costs and access to capital. The top option selected encompassed business opportunities, technical training, and fee waivers. Based on this Assessment data, we recommend that the City of Modesto adopt the following definition: **Equity means the City of Modesto will provide assistance with business ownership in a variety of forms, including skills training, technical support, funding sources, waivers and deferrals, mentoring, and family self-sufficiency support services.** These services can be provided by city staff or by third party providers.

## II. Eligibility Criteria

California’s dual licensing program for legal cannabis operations affords opportunities for government organizations to build in equity benefits at both the state and local levels. The Department of Cannabis Control is the state agency authorized to develop and implement a program to provide waivers for required licensing fees under Business and Professions Code section 26249. We relied on the state’s official report on the rulemaking which explains and justifies the inclusion of Stanislaus County, among others, as an area with a population disproportionately impacted by

criminal justice policies implementing cannabis prohibition between 1980 and 2016. As stated above in Section 3, which provides an overview of the City of Modesto and Stanislaus County census data, Modesto makes up about 40% of Stanislaus County's population and is thus a significant contributor to criminalization policies and impacts. Outlined below are first, the state's equity criteria and second, the City of Modesto's non-equity criteria for applicants and licensees.

- A. \*State of California defined criteria for equity participants - Currently, the Department of Cannabis Control is offering fee waivers and deferrals for eligible equity applicants and licensees. The pertinent regulations can be found here <https://cannabis.ca.gov/applicants/equity-fee-waivers>. Under the state's regulatory scheme, the cannabis business must meet the following criteria:
1. Equity ownership: Individuals who meet the equity criteria own 50% or more of the business.
  2. Gross revenues: The business has gross revenues of \$5 million or less per year. If a new applicant, the business expects gross revenues of \$5 million or less for the first year.

The state further provides – Equity owners must meet at least one of the following criteria (additional details appear on the state's equity website):

1. Cannabis conviction or arrest: The owner was convicted of or arrested for a cannabis offense before November 8, 2016.
2. Household income: The owner's household income is less than or equal to 60 percent of the Area Median Income for the local jurisdiction where they live.
3. Neighborhood: The owner lived for at least five years between 1980 and 2016 in an area disproportionately impacted by past criminal justice policies implementing cannabis prohibition. Learn more about [qualifying neighborhoods](#), or use our [map tool](#) to see if you lived in a qualifying area.

The State of California allows local jurisdictions to set up their own equity criteria. If equity applicants or licensees participate in a local jurisdiction's equity program, they can

prove they meet the state's equity criteria through an attestation on the state's fee waiver form. Otherwise, the applicants or licensees who choose not to participate in their local equity program or are in a jurisdiction without an equity program can submit documents to the Department of Cannabis Control to show eligibility.

- B. City of Modesto defined criteria for non-equity participants – Local jurisdictions are authorized to adopt criteria for their cannabis programs that are more restrictive than state requirements. On November 7, 2017, the city put forth a ballot measure, known as Measure T, that would approve the Modesto Cannabis Business Tax and authorize the City Council to establish a tax rate of up to ten percent (10%) on gross receipts on cannabis businesses if they are allowed to operate in the City in the future. This measure proceeded to the ballot on a 5-2 vote of Modesto City Council on June 27, 2017. The two dissenting councilmembers expressed a desire for Modesto to establish uniform regulations with Stanislaus County. Measure T was overwhelmingly approved by the voters by more than 82%.

After this vote, the City of Modesto chose to amend its municipal code to regulate and tax commercial cannabis businesses pursuant to Ordinance Number 3684-C.S., adopted on January 16, 2018, and effective on February 15, 2018. It was adopted along with related Ordinance Number 3683-C.S., which includes a land use zoning table designating areas available for commercial cannabis uses. See ordinances as adopted in archives for the year 2018 [here](#). We reviewed the legislative history of these ordinances to illuminate public comments and the Modesto City Council's motivation in legalizing cannabis operations in the city. See the 2018 legislative history [here](#).

The existing regulatory scheme does not address equity considerations. There are model ordinances listed on the Department of Cannabis Control's website which broadly capture basic equity considerations. Every local jurisdiction is different, however, and the City of Modesto should focus on its specific community profile, as laid out in Sections 3 through 5 above, when adopting equity measures designed to effectively address impacts of the War on Drugs on its local population and neighborhoods. The discussion below outlines Program Development recommendations to the City of Modesto based on the community profile compiled during this Assessment effort.

## I. Education and Technical Training

Who needs it - Based on the above community profile, the equity eligibility criteria and populations served should include the hardest hit areas by zip code, which were 95350, 95351, 95354, and 95355. These zip codes encompass the least resilient communities, based on the U.S. Census Bureau's community resilience estimates for equity and disasters, As mentioned in Section 5 above, these risk factors, verified in this Assessment, include the following:

- Income to Poverty Ratio
- Single or Zero Caregiver Household
- Crowding
- Communication Barrier
- Households without Full-time, Year-round Employment
- Disability
- No Health Insurance
- Age 65+
- No Vehicle Access
- No Broadband Internet Access

Eligible applicants should include those directly involved in cannabis operations as owners and the ancillary businesses that serve them, such as accountants, insurance brokers and realtors, to name a few.

### A. What it includes - tips on industry specific and general business operations:

1. How to think like a business owner - for example, the City of Sacramento provided curriculum-based training on the entrepreneurial mindset
2. Business entity selection and formation – for example, the Secretary of State and the Franchise Tax Board provide information and resources on what to consider when starting a business

3. Business plan development – for example, the California Capital Women’s Business Center provides templates for business plans and development assistance for small businesses (including cannabis training)
  4. Location assistance – for example, give cannabis equity applicants the next-in-line option to lease or own surplus property after affordable housing
  5. How to attract investors – for example, provide City of Modesto seed money and cooperative opportunities to invest in equity participants, including location assistance, marketing and branding, and training in grant writing
  6. How to qualify for financing – for example, the City of Sacramento provided curriculum on how to create pro formas, how to create an income statement, and how to produce a profit and loss statement
  7. Business management and workforce development – for example, the City of Sacramento provided curriculum on human resources, team building and incubator opportunities for hands on training
  8. Navigating the permitting/licensing processes – for example, the City of Sacramento provided legal compliance curriculum that covered state and local processes, as well as non-cannabis requirements, such as intellectual property, labor (via the California Department of Food and Agriculture) employee safety (via the California Office of Safety and Health Administration), fire safety, and police security. The City of Modesto should also assist with background checks, as needed.
- B. How to maintain compliance – for example, provide City of Modesto real time alerts and hold weekly workshops that are calendared and publicly available via Zoom links, similar to Mendocino County, and are specifically addressed to equity participants to provide updates and answer questions
- C. How it advances equity - Removes elements of intimidation and isolation from process of engaging with government organizations – for example, start a City of Modesto public engagement campaign to provide a cannabis business forum that focuses on health and safety, current and pending licenses, locations suitable for commercial cannabis operations (available, affordable and properly zoned), and technical assistance that connects participants to workshops and other mentoring opportunities.

The City of Modesto should also ensure equity program features include expungement events and background check technical assistance held in disproportionately impacted neighborhoods. These efforts would help to advance equity by reducing obstacles to navigating the expungement process and mitigate one of the chief barriers to entry into the legal cannabis business, as shown in the community profile discussed above.

- II. Community Reinvestment** - This Assessment provides the City of Modesto with a community profile that strongly indicates the devastating effects that linger to this day in its underserved communities where various data underscores high crime rates, poverty, and elevated risk factors for inability to recover from disasters and maintain business resilience. The harm caused by the War on Drugs continues to create blight and hurt families in the hardest hit communities. The City of Modesto should allocate resources from its cannabis tax revenues (\$5,379,402 in Fiscal Year 2020-2021) and apply for the Type 2 GOBiz Cannabis Equity Grant Program funding (up to \$5 million per local equity jurisdiction competing for a total state funding allocation of \$15 million in Fiscal Year 2022-2023) available to assist these distressed individuals and neighborhoods identified in the community profile.
- A. Who should benefit – individuals who were arrested or convicted and immediate family members who resided for 5 years between 1980 and 2016 in the most marginalized areas, specifically, the 95350, 95351, 95354, and 95355 zip codes, and intend to operate a business anywhere within the city limits. The City of Modesto has discretion to expand the window of eligibility to the current year, and we recommend they do so using the community profile in this Assessment that shows ongoing moderate to high risk factors for inability to recover from disasters and maintain business resilience. Businesses should only be eligible if they prove a minimum of 51% equity ownership.
  - B. How to access City of Modesto funding - set up documentation requirements that are easy to follow and practical and can be completed on line or in person – for example, during residency in the City of Modesto, show individual or household eligibility to receive government assistance, evidence of arrest, conviction or expungement or immediate family relationship to someone arrested or convicted, and three years of income less than or equal to 60% of the current Area Median Household Income for

Stanislaus County. Dedicate a staff member to screen completeness of documentation and set up a review committee to confidentially review and verify applicant eligibility.

- C. How to measure impacts – for example, establish a baseline number that identifies businesses currently operating, both cannabis and non-cannabis, which would meet the established eligibility criteria compiled from a list of individuals who elect to apply for enrollment in the LCEP started by the City of Modesto.
  1. Building on this list, set an overall goal for number of new or expanded cannabis and ancillary businesses with equity ownership of 51% or more that includes individuals who participate in the education and technical training program and add or expand at least 10 business operations by the end of the first three years of the program's start. Reaching this goal depends entirely on the City of Modesto's level of commitment to the program, both financial and instructive, and diligent pursuit of business success by the equity participant.
  2. Monitor and report regularly on progress towards goal by measuring number of business plans completed, business locations identified through letters of intent, leases or commercial purchasing agreements, number of no interest loans or grants funded, number of full-time or part-time jobs created within the equity zip codes, number of equity participants who are incubated through existing non-equity businesses, and the proceeds from tax revenues generated by the non-equity businesses at 1% of gross revenues and set aside for reinvestment in the 95350, 95351, 95354, and 95355 zip codes. Provide quarterly and annual reports on these outcomes to the Modesto City Council for consideration of program adjustments, as needed.

### **III. Access to Capital**

- A. Identify allowable cannabis finance sources – provide mentoring by a third-party provider on options beyond friends and family, such as state or local grants or no interest loans, benefits provided by tax and fee waivers or deferrals, existing cannabis businesses located anywhere in the State of California, real estate developers or investors.

- B. Identify funding readiness – provide mentoring on valuation and documentation by a third-party provider on how to compile a financial affidavit and how to interpret the current market value of an asset.
- C. Provide solutions – engage with equity participants one-on-one through a third-party provider to assess what works and implement practical measures, as warranted.

## 8.1 Review of Other Jurisdictions' Efforts to Promote Equity in Cannabis

- I. **Facilitator Approach Example:** City of Sacramento – Sac GreenEquity Program facilitated by the Greater Sacramento Urban League with program implementation by The Brenda Davis Law Group:

The facilitator approach has three key components: 1) setting up the eligibility screening process; 2) setting up/delivering curriculum; and 3) following up on measures to ensure business readiness and successful access to opportunities. We recommend the City of Modesto start by adopting very specific documentation requirements that support equity eligibility. For example, in the City of Sacramento, you must qualify under one or more of Classifications I – V as defined in the Cannabis Opportunity Reinvestment and Equity (CORE) program Resolution Number 2018-0323, as noted here <https://sacgreenequity.wordpress.com>.

This program identifies initial documentation requirements to process an equity application for admission into a cohort for business development training, technical support, and mentoring. Among the options identified, we recommend the following

1. 5 years proof of residence AND 3 years proof of household income for the years 1980--present
2. A copy of your identification and Social Security card (or any documentation that proves your employment eligibility in the United States)
3. A copy of your resume

4. A copy of your business plan or completion of a business plan concept essay
5. Additional documentation as required to confirm eligibility (e.g., proof of name change due to marriage or any other event)
6. Assist with any expungements and background checks required in Phase 1 of the application process
7. Provide a means to upload all documents to a secure DropBox link

Under this approach, a third-party provider would coordinate services via a twelve-week curriculum and certification of eligibility for all equity benefits but would not provide any direct financial assistance to eligible participants. The City of Modesto should administer all benefits, including permit fee waivers and deferrals, priority processing of land use, construction and business applications, community reinvestment via tax waivers, and direct financial assistance made available through GO-Biz funding. The City of Modesto should disburse all grant funding and monitor access to and use of direct financial assistance to equity participants.

**II. In-House Approach Example: Humboldt County - Local Cannabis Equity Program:**

If the City of Modesto chooses to commit staff resources to coordinate an equity program, Humboldt County provides an available example:

The Humboldt County Administrative Office – Economic Development Team (Economic Development) is authorized to enter into an interagency agreement, on behalf of the county, with qualifying internal or external agencies capable of providing the services described in SB 1294 (the California Cannabis Equity Act), the California Business and Professions Code and the Humboldt County Local Equity Program (LEP) Manual. Humboldt provides small business support services and direct financial assistance to eligible participants through the Project Trellis Local Equity Program V2.1 to help individuals in the local cannabis community enter and succeed in the commercial cannabis marketplace.

According to the LEP Manual, Humboldt works with the Project Trellis Citizens' Advisory Committee (formerly Cannabis Micro-Grant and Loan Advisory Committee), which is authorized to promulgate any policies, procedures, and forms necessary for program administration and submit them to the Board of Supervisors for review and approval. Its membership, according to Resolution Number 19-45 (May 28, 2019), as amended by Resolution Numbers 20-33 (April 28, 2020), 21-06 (January 12, 2021), and 21-05 (January 11, 2022), consists of: *(9) Nine total. (7) Seven voting members. (1) from each District Appointed by the Supervisor from that District, (2) At-Large (1 representing the cannabis industry and 1 representing an industry that is lateral to the cannabis industry such as finance or banking) and (2) Alternates Appointed by the Board of Supervisors (nonvoting unless needed).*

As between the two approaches modeled above, we recommend the third-party facilitator approach to ensure a dedicated set of professionals is available to help the equity participants on a timely basis. The training and mentoring required to assist the populations identified in this Assessment as most in need of this type of program is best provided in an environment where businesses can develop quickly. We further recommend the City of Modesto assign a staff member to serve as the primary program coordinator to work with the third-party provider and expedite the licensing process to get these businesses up and running as soon as reasonably possible.

### III. Sample Ordinances and Resolutions

Example 1. Sacramento Cannabis Opportunity Reinvestment and Equity (CORE) program Resolution Number 2018-0323 - establishes eligibility criteria and program benefits - <https://www.cityofsacramento.org/City-Manager/Divisions-Programs/Cannabis-Management/Core-Program>

Example 2. Humboldt County - Humboldt County Cannabis Local Equity Program Manual describes equity eligibility and benefits available - <https://humboldt.gov/2159/Commercial-Medical-Marijuana-Permitting>

Example 3. San Diego - provides a comprehensive reference guide to all cannabis requirements and information in one convenient location, including a recently completed

Equity Assessment Report –

<https://www.sandiego.gov/developmentservices/cannabis#equity>

**IV. Comparative Lists of Equity Benefits**

The jurisdictions noted below have cannabis equity programs that illustrate the kinds of benefits that could be useful to eligible participants and practical for the City of Modesto to implement.

- A. Other States and local jurisdictions:**
- 1.Exclusive access to permit/license types
  - 2.Reserved number of applications available before regular applications are received and reviewed
  - 3.Ensure set ratio of equity to regular applicants by numbers or percentages
  - 4.Minimum equity ownership requirements for access to benefits
  - 5.Priority processing (go to front of any line)
  - 6.Technical training and support (lighting, HVAC, architecture, engineering, construction, security), regulatory compliance assistance, business plan development assistance, business mentoring, license specific incubators, access to capital (grants, no interest or low interest loans/repayment deferrals), access to eligible commercial property, access to environmental resources (water, waste management and disposal), access to digital tools and skills training, license specific apprenticeships
  - 7.Legal support
  - 8.Ancillary business support
  - 9.Entrepreneurship training
  - 10.Professional Development
  - 11.Hiring, workforce development of managers, employees
  - 12.Accounting, taxation assistance
  - 13.Waivers or reductions of fees (permits - annual, monthly, renewals, industry specific requirements like METRC)
  - 14.Deferrals of fees
  - 15.Tax exemptions or deferrals
  - 16.Reimbursements
  - 17.Networking opportunities, memberships, mixers, travel assistance

Figure 15a – List of equity benefits from other states and local jurisdictions presented as examples at the second Community Orientation



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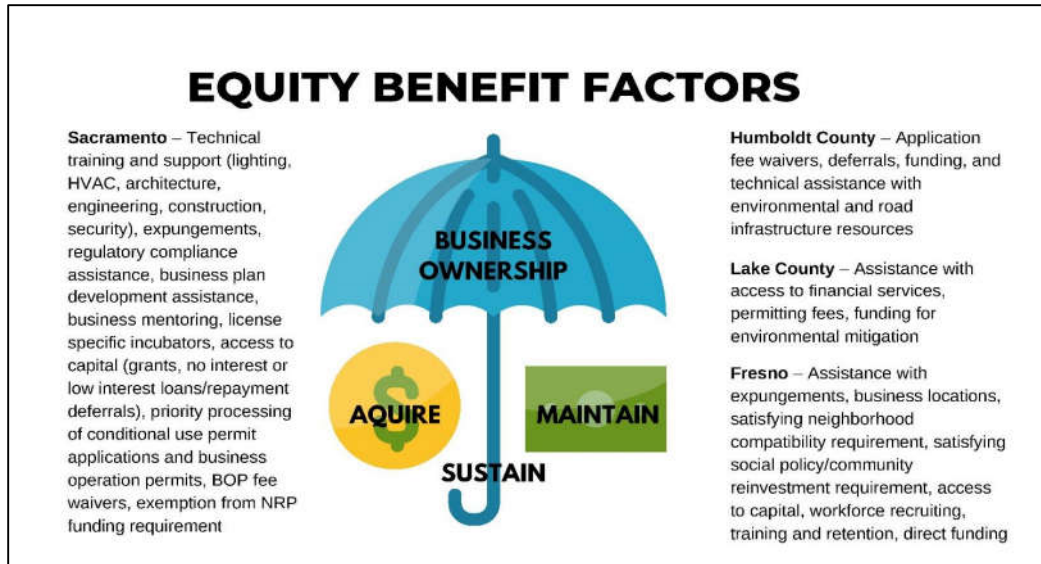


Figure 15b - List of equity benefit factors from other local jurisdictions presented as examples at the second Community Orientation

As illustrated in the discussion above, the menu of options available to the City of Modesto to establish a cannabis equity program is rich and varied. The needs expressed by the community members as related in this analysis should help the city set priorities and funding levels to begin to address the harm caused by the War on Drugs in its most at-risk communities. We recommend the City of Modesto adopt the City of Sacramento Sac GreenEquity program model with the addition of items 1, 2, 3, 10, 11, 16, and 17 listed above in Figure 15a, which, in addition to the Sacramento program amenities, provide:

- exclusive access to permit license types, such as the remaining 2 dispensary licenses plus first right to apply for any of the other 8 if they become available in the next 3 years or any added dispensaries if the current cap of 10 is raised
- reserved rights to apply for up to 10 non-dispensary licenses before the non-equity population can apply for any additional licenses beyond the existing 6
- adopt a ratio of equity to non-equity applicants of 3:1 over a 10-year period from the launch of the first equity business
- professional development opportunities to learn and hone business management skills
- assistance with team building and workforce development of managers and employees
- reimbursement of startup costs
- networking opportunities, including memberships, mixers, travel assistance with conferences

- given the need for premises to support cannabis applications before a license can be completed, the City of Modesto should add funding or property for applicants located in areas zoned for such uses



Modesto Junior College [This Photo](#) by Unknown Author is licensed under [CC BY](#)

## 8.2 REFERENCES

Figure 3 - Bureau, U. S. C. (n.d.). US Census. Last accessed on July 10, 2022, from <https://data.census.gov/cedsci/profile?q=0600000US0609991980> and <https://www.census.gov/quickfacts/fact/table/modestocitycalifornia/PST045221>

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<https://california.staterecords.org/stanislaus/modesto>

<https://www.scsdonline.com/crime-incident-reports.html>

Report Request

<https://www.modestogov.com/DocumentCenter/View/151/Request-to-Inspect-Records-PDF?bidId=>

Census

<https://www.census.gov/quickfacts/fact/table/modestocitycalifornia/AGE775220#AGE775220>

<https://www.city-data.com/city/Modesto-California.html>

Survey

Please visit this survey link to provide your input on this project.

<https://www.surveymonkey.com/r/BWYDQXL>

California Department of Corrections and Rehabilitation Data

[cdcr.ca.gov](http://cdcr.ca.gov)

National Association of Colleges and Employers

<https://www.naceweb.org/about-us/equity-definition/>

Validated Community Assessment Methodology

<https://healthpolicy.ucla.edu/programs/health-data/trainings/Pages/community-assessment.aspx>

Drug Enforcement Agency Information

<https://www.dea.gov/press-releases/2011/10/06/modesto-cornfield-pot-growers-indicted>

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Figure 3b – Equality Vs. Equity Retrieved October 30, 2022, from

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Figure 4b - *Report on drug arrests in California from 1990 to 1999*. (n.d.). Retrieved October 27, 2022, from <https://oag.ca.gov/sites/all/files/agweb/pdfs/cjsc/publications/misc/drugarrests-full-report.pdf>

Figure 5 - Modesto Cannabis Equity Assessment Survey #1 Results, Question #2

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Figure 6 - Modesto Cannabis Equity Assessment Survey #2 Results, Question #8

[https://www.surveymonkey.com/stories/SM-enyKNJxoeNAZ7J\\_2BrpZgb\\_2Fg\\_3D\\_3D/](https://www.surveymonkey.com/stories/SM-enyKNJxoeNAZ7J_2BrpZgb_2Fg_3D_3D/)

Figure 10 - Modesto Cannabis Equity Assessment Survey #1 Results, Question #4

[https://www.surveymonkey.com/stories/SM-BcXm6234gOEHepti\\_2BJWA\\_3D\\_3D/](https://www.surveymonkey.com/stories/SM-BcXm6234gOEHepti_2BJWA_3D_3D/)

Figure 11a - Modesto Cannabis Equity Assessment Survey #1 Results, Question #5

[https://www.surveymonkey.com/stories/SM-BcXm6234gOEHepti\\_2BJWA\\_3D\\_3D/](https://www.surveymonkey.com/stories/SM-BcXm6234gOEHepti_2BJWA_3D_3D/)

Figure 12a - Modesto Cannabis Equity Assessment Focus Group Activity

Figure 12b - Modesto Cannabis Equity Assessment Focus Group Activity Photographs

Figure 13 - Modesto Cannabis Equity Assessment Survey #1 Results, Question #10

[https://www.surveymonkey.com/stories/SM-BcXm6234gOEHepti\\_2BJWA\\_3D\\_3D/](https://www.surveymonkey.com/stories/SM-BcXm6234gOEHepti_2BJWA_3D_3D/)

Figure 14 - Modesto Cannabis Equity Assessment Survey #2 Results, Question #12

[https://www.surveymonkey.com/stories/SM-enyKNJxoeNAZ7J\\_2BrpZgb\\_2Fg\\_3D\\_3D/](https://www.surveymonkey.com/stories/SM-enyKNJxoeNAZ7J_2BrpZgb_2Fg_3D_3D/)

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**MODESTO CITY COUNCIL  
RESOLUTION NO. 2022-479**

**RESOLUTION ADOPTING A CITY OF MODESTO CANNABIS EQUITY PROGRAM AND AUTHORIZING THE CITY MANAGER, OR DESIGNEE, TO TAKE ALL ACTIONS AS MAY BE REQUIRED TO IMPLEMENT THIS RESOLUTION AND PROGRAM, INCLUDING BUT NOT LIMITED TO THE ESTABLISHMENT OF INTERNAL CONTROLS, ADMINISTRATIVE FUNCTIONS, AND APPLICATION SUBMITTAL PROCESSES AS NECESSARY**

WHEREAS, on November 8, 2016, California voters approved Proposition 64, the Control, Regulate, and Tax Adult Use of Marijuana Act (AUMA); and

WHEREAS, funding has been allocated to the Governor's Office of Business and Economic Development to provide grant funds to local governments pursuant to AB 97 (Stats. 2019, Ch. 40), for Cannabis Equity program purposes; and

WHEREAS, the City Council has adopted a Commercial Cannabis Ordinance, Ordinance 3684-C.S., that established the City's regulatory framework for commercial cannabis businesses; and

WHEREAS, the City of Modesto desired to assess a potential local equity program for prospective commercial cannabis business owners; and

WHEREAS, the City Council of the City of Modesto supported the development of a local equity program; and

WHEREAS, on January 26, 2021, by resolution No.2021-024, the City Council authorized the City Manager to apply for a State Cannabis Equity Grants Program for Local Jurisdictions, for an amount up to \$75,000 for the purposes of funding a cannabis equity assessment and funding the potential development of a cannabis equity program; and

WHEREAS, in March of 2021, the Governor's Office of Business and Economic Development announced that the City of Modesto application was selected for funding in the amount of \$75,000; and

WHEREAS, on April 27, 2021, by Resolution No. 2021-156, the City Council authorized the original grant agreement with the Governor's Office of Business and Economic Development for the amount of \$75,000 for the purposes of program assessment and development; and

WHEREAS, on December 22, 2021, the City released a Request for Proposal (RFP) soliciting qualifications from qualified consulting firms and/or individuals, with demonstrated experience in providing cannabis equity consulting services to conduct a cannabis equity assessment and/or assist with the development of a local equity program; and

WHEREAS, the Brenda Davis Law Group was selected through the solicitation process because of their demonstrated experience in providing cannabis equity consulting services to conduct a cannabis equity assessment and develop a cannabis equity program; and

WHEREAS, on March 17, 2022, under the City Manager's authority pursuant to Modesto Municipal Code Section 8-3.102 the City entered into an agreement with the Brenda Davis Law Group for a not to exceed amount of \$40,000; and

WHEREAS, on August 9, 2022, by Resolution No.334, the City authorized a First Amendment to the agreement increasing the compensation amount by \$49,050 from \$40,000 to a total of \$89,050 to continue the development of a cannabis equity program; and

WHEREAS, the equity assessment report was completed by the Brenda Davis Law Group in October of 2022 which provides the framework for a City of Modesto cannabis equity program.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby adopts a City of Modesto Cannabis Equity Program.

BE IT FURTHER RESOLVED, that the City Manager, or designee, is authorized to take all actions as may be required to implement this resolution and program, including but not limited to the establishment of internal controls, administrative functions, and application submittal processes as necessary.


The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 13th day of December, 2022, by Councilmember Wright, who moved its adoption, which motion being duly seconded by Councilmember Alvarez, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Alvarez, Bavaro, Escutia-Braaton, Ricci, Williams, Wright, Mayor Zwahlen

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST:

  
DIANE NAYARES-PEREZ, CMC,  
City Clerk

(SEAL)

APPROVED AS TO FORM:

BY:

  
JOSE M. SANCHEZ, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2022-480**

**RESOLUTION AUTHORIZING THE CITY MANAGER, OR DESIGNEE, TO APPLY FOR A STATE OF CALIFORNIA CANNABIS EQUITY GRANT PROGRAM FOR LOCAL JURISDICTIONS, FOR THE PURPOSE OF FUNDING A CANNABIS EQUITY PROGRAM AND TO COMPLETE AND SUBMIT THE GRANT APPLICATION AND ANY SUBSEQUENT APPLICATION WITH THE GOVERNOR'S OFFICE OF BUSINESS AND ECONOMIC DEVELOPMENT IN RELATION THERETO**

WHEREAS, on November 8, 2016, California voters approved Proposition 64, the Control, Regulate, and Tax Adult Use of Marijuana Act (AUMA); and

WHEREAS, funding has been allocated to the Governor's Office of Business and Economic Development to provide grant funds to local governments pursuant to AB 97 (Stats. 2019, Ch. 40), for Cannabis Equity program purposes; and

WHEREAS, the City Council has adopted a Commercial Cannabis Ordinance, Ordinance 3684-C.S., that established the City's regulatory framework for commercial cannabis businesses; and

WHEREAS, the City of Modesto desired to assess a potential local equity program for prospective commercial cannabis business owners; and

WHEREAS, on January 26, 2021, by resolution No.2021-024, the City Council authorized the City Manager to apply for a State Cannabis Equity Grants Program for Local Jurisdictions, for an amount up to \$75,000 for the purposes of funding a cannabis equity assessment and funding the potential development of a cannabis equity program; and

WHEREAS, in March of 2021, the Governor's Office of Business and Economic Development announced that the City of Modesto application was selected for funding in the amount of \$75,000; and

WHEREAS, the City Council of the City of Modesto supported the development of a local equity program; and

WHEREAS, on April 27, 2021, by Resolution No. 2021-156, the City Council authorized the original grant agreement with the Governor's Office of Business and Economic Development for the amount of \$75,000 for the purposes of program assessment and development; and

WHEREAS, for fiscal year 2022-2023, the Cannabis Equity Grants Program for Local Jurisdictions was allocated \$15,000,000 from the Cannabis Tax fund with \$2,000,000 being made available for type 1 grants and \$13,000,000 allocated to type 2 grants; and

WHEREAS, on December 13, 2022, by resolution No. 2022-478, The City Council accepted the City of Modesto Cannabis Equity Assessment and Program Development Report, and by Resolution No.2022-479, adopted a City of Modesto Cannabis Equity Program and authorized the City Manager, or designee, to take all actions as may be required to implement the resolution and program, including but not limited to the establishment of internal controls, administrative functions, and application submittal processes as necessary.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the City Manager, or designee, is hereby authorized to apply for a State of California Cannabis Equity Grant Program for Local Jurisdictions, for the purpose of funding a cannabis equity program and to complete and submit the grant application and any subsequent application with the Governor's office of Business and Economic Development in relation thereto.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 13th day of December, 2022, by Councilmember Wright, who moved its adoption, which motion being duly seconded by Councilmember Alvarez, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Alvarez, Bavaro, Escutia-Braaton, Ricci, Williams, Wright, Mayor Zwahlen

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST:   
DIANE NAYARES-PEREZ, CMC,  
City Clerk

(SEAL)

APPROVED AS TO FORM:

BY:   
JOSE M. SANCHEZ, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2022-481**

**RESOLUTION APPROVING THE ADOPTION OF SECTION 24 (LABOR STANDARDS) AND SECTION 25 (MBE/WBE) AND THE AMENDMENT OF THE SECTION 6 (HOMEOWNER REHABILITATION PROGRAM POLICIES), WITHIN THE HOUSING AND URBAN DEVELOPMENT POLICIES & PROCEDURES MANUAL**

WHEREAS, the City of Modesto is an entitlement community awarded Department of Housing and Urban Development (HUD) funds annually to address housing needs, improve and develop communities, and enforce fair housing laws, and

WHEREAS, HUD funding requires compliance with Davis Bacon and Related Acts (DBRA), and

WHEREAS, Davis-Bacon labor standards requirements are triggered at different thresholds under the CDBG and HOME Program, and

WHEREAS, these labor standards require that workers receive no less than the prevailing wages being paid for similar work in the same area, and

WHEREAS, HUD should be contacted if there is any situation where the applicability of Davis-Bacon is in question, and

WHEREAS, for projects utilizing Federal Funding DBRA sets the local wages, and

WHEREAS, the City of Modesto is required to comply with DBRA by monitoring certified payrolls for projects that are subject to the law, and

WHEREAS, this monitoring includes:

- Complete on-site labor interviews to confirm classifications align with work observed

- Retention payments are released once the certified payroll review has been completed and interviews have been appropriately compared
- The City of Modesto is required to submit a Semi-Annual Labor Standards Enforcement Report (HUD form 4710), and

WHEREAS, as an entitlement jurisdiction, the City is required to establish policies and procedures to support equal opportunity programs related to minority business enterprises (MBE) and women business enterprises (WBE), and

WHEREAS, Minority Business Enterprise (MBE) is defined as a company that is 51% owned by a minimum of one U.S. citizen whose ethnic background is at least 25% Asian-Indian, Asian-Pacific, Black, Hispanic, or Native American, and

WHEREAS, Women Business Enterprise (WBE) is defined as an independent business that is at least 51% owned and controlled by one or more women who are U.S. citizens or Legal Resident Aliens; whose business formation and principal place of business are in the U.S or its territories; and whose management and daily operation is controlled by a woman with industry expertise, and

WHEREAS, Section 281 of the National Affordable Housing Act requires each contractor to prescribe procedures to establish and oversee a minority outreach program, and

WHEREAS, Section 281 of the National Affordable Housing Act requires each contractor to prescribe procedures to establish and oversee a minority outreach program, and

WHEREAS, the program shall include minority and women-owned businesses in all contracting activities entered into by the contractor to facilitate the provision of affordable housing authorized under this Act or any other federal housing law applicable to such jurisdiction, and

WHEREAS, minimum HUD standards require guidelines for contractor's outreach effort to minority and women-owned businesses, and

WHEREAS, the City of Modesto is required to comply with MBE/WBE by enforcing appropriate procurement, which includes affirmative steps to assure that women-owned business and minority-owned business are afforded contracting opportunities, and

WHEREAS, the policy outlines the steps the City takes to ensure procurement compliance, which includes but is not limited to the inclusion of the policy in Federal procurement packets, providing contractors and program participants the guidelines to be counted in the annual reporting, and

WHEREAS, the City of Modesto is required to submit an annual Minority Business Enterprise and Women's Business Enterprise (MBE/WBE) Contract and Subcontract Activity Report (HUD Form 2516) to ensure compliance with MBE/WBE, and

WHEREAS, in order to be recognized by the City as an MBE or WBE for the annual reports, the business will need to register with the Small Business Administration for the distinction, and

WHEREAS, in July 2022, the City staff was approached by the Housing Rehabilitation Loan Committee to review its Section 6 program policies and after taking into consideration the committee's recommendations and reviewing updated HUD regulations staff presented the following amendments, and

WHEREAS, the policy changes include:

- Section 3.0: NPU verification to ensure no outstanding active violations,
- Section 8.0: Grant depreciation terms added Single family homes, 10% annually over the 10-year affordability term Mobile homes, and 20% annually over the 5-year affordability term
- Section 9.0: Increased mobile home grant \$25K, increased material costs Included a loan option if in the case project costs exceed grant amount (5 years at 0%)
- Section 13.0: Policy updates to conform to updated HUD guidance UEI rather than DUNS number (contractor Federal identification number)

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby authorizes a resolution approving the adoption of Section 24 (Labor Standards), Section 25 (MBE/WBE) and the amendment of the Section 6 (Homeowner Rehabilitation Program Policies), of the Housing and Urban Development Policies & Procedures Manual.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 13th day of December, 2022, by Councilmember Wright, who moved its adoption, which motion being duly seconded by Councilmember Alvarez, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Alvarez, Bavaro, Escutia-Braaton, Ricci, Williams, Wright, Mayor Zwahlen

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST:   
DIANE NAYARES-PEREZ, CMC,  
City Clerk

(SEAL)

APPROVED AS TO FORM:

BY:   
JOSE M. SANCHEZ, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2022-482**

**RESOLUTION APPROVING AN AGREEMENT WITH CATHOLIC CHARITIES DIOCESE OF STOCKTON TO PROVIDE THE ENVIRONMENTAL JUSTICE OUTREACH COMPENENT OF THE AFFORDABLE HOUSING AND SUSTAINABLE COMMUNITIES GRANT APPLICATION IN AN AMOUNT NOT TO EXCEED \$175,000 OVER THE NEXT THREE YEARS FOR ARCHWAY COMMONS PHASE II AND AUTHORIZING THE CITY MANAGER OR DESIGNEE TO EXECUTE THE AGREEMENTS**

WHEREAS, on November 1, 2019, the State of California's Round 5 issued a Notice of Funding Availability (NOFA) for \$550 million in in funding under the AHSC program, and

WHEREAS, the City of Modesto and EAH submitted a joint grant application for funding in February 2020 for the development of Archway Commons, and

WHEREAS, on July 2020, the City received an AHSC award letter notifying the City the project was successfully awarded a grant in the amount of \$24,766,157 for housing & transportation related costs, and

WHEREAS, of the total grant award, \$14,276,157 will be directly used for construction of Archway Commons Phase II, and \$10,000,000 will be used for transportation related infrastructure improvements along 9<sup>th</sup> Street, and

WHEREAS, the improvements included: transit realignment of the Modesto Area Express (MAX) route connecting Archway Commons to the Modesto Transit Center located to the south as well as to Modesto Junior College (MJC) and retail centers in the area, purchase of an Altamont Corridor Express (ACE) rail car, and up to three miles of new bike path extending 9th Street from Carpenter Road to L Street, and

WHEREAS, the grant also included Program Costs (PGM) Costs totaling \$490,000, one of the programs was the support of an outreach program conducted by

Catholic Charities in partnership with the City of Modesto, Stan COG and EAH, to support outreach to the impacted communities of the Archway Commons Housing Development at 1101 Carver Road, and

WHEREAS, on September 18, 2020, City Council, by Resolution No. 2020-429, approved the submission of the Affordable Housing and Sustainable Communities (AHSC) grant On April 27, 2021, by Resolution No. 2021-154, City Council approved an Affordable Housing and Sustainable Communities Program Disbursement Agreement between the City of Modesto and EAH Inc., and

WHEREAS, Catholic Charities in partnership with the City of Modesto, StanCOG and EAH, will support outreach to the impacted communities of the Archway Commons Housing Development at 1101 Carver Road, and

WHEREAS, the program will complete outreach and education regarding the transit/transportation impact to the community and the related issues of air quality, healthy lifestyles and sustainable communities with a budget of \$58,333 per year to support staff-time for a three-year period for a total of \$175,000, and

WHEREAS, the program has three interrelated areas of focus: to educate and raise awareness regarding environmental issues at the local, regional and State level, to advocate for clean air and other regional issues that impact health and economic disparities in the Central Valley, and to advocate for sustainable communities via engagement in local planning and civic engagement, and

WHEREAS, the target community is the one-mile radius surrounding the Archway Commons Development and strategies to implement the program for the three-years, and

WHEREAS, strategies include outreach activities such as community engagement, hosting town hall/public meetings for Phase I residents and surrounding neighborhood residents, creating and providing outreach and informational material in English and Spanish according to demographics of current housing development and immediate surrounding community, connecting local stakeholders such as City of Modesto, Public Health, Transit officials, Sustainable Communities Coalition, and community programs with the broader community in the project area, utilizing social media, distributing fliers to Archway Commons Residents and post in common areas of the residence, and

WHEREAS, presentation and community education strategies to emphasize existing transportation and transit use as well as surveying the concerns and needs of future transportation expansion in the project area include scheduling presentations and workshops developed in collaboration with the project partners, documenting outcomes and producing follow-up action reports as needed, creating educational materials and collaborating with organizations that provide technical assistance in the areas of transit use, air quality and its impact on healthy living and providing trainings on sustainable communities' engagement, and

WHEREAS, Modesto Municipal Code (MMC) Section 8-3.203 generally requires all purchases in excess of fifty thousand dollars (\$50,000) to follow formal bid procedures. However, MMC section 8.3.204 provides that formal bid procedures are not required when the City's requirements "can be met solely by a single article or process." Here, the AHSC Grant identifies Catholic Charities as the entity that will provide the

outreach activities and selecting any other entity to perform the work would be inconsistent with the requirements of the Grant award, and

WHEREAS, the total agreement will not exceed \$175,000 over the next three years.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves agreement with Catholic Charities to provide environmental justice outreach in an amount not to exceed \$175,000 through the Affordable Housing and Sustainable Communities Grant (AHSC) for Archway Commons Phase II.

BE IT FURTHER RESOLVED that the City Manager, or his designee, to authorizing the City Manager or his designee to execute the agreement with such changes as determined by the City Attorney.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 13th day of December, 2022, by Councilmember Wright, who moved its adoption, which motion being duly seconded by Councilmember Alvarez, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Alvarez, Bavaro, Escutia-Braaton, Ricci, Williams, Wright, Mayor Zwahlen

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST:   
DIANE NAYARES-PEREZ, CMC,  
City Clerk

(SEAL)

APPROVED AS TO FORM:

BY:   
JOSE M. SANCHEZ, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2022-483**

**RESOLUTION AMENDING THE FISCAL YEAR 2022-2023 MULTI-YEAR FUND BUDGET TO ESTABLISH APPLICABLE REVENUE AND EXPENSE BUDGETS FOR THE CATHOLIC CHARITIES ENVIRONMENTAL JUSTICE PROGRAM AGREEMENT TO BE FUNDED WITH THE AFFORDABLE HOUSING AND SUSTAINABLE COMMUNITIES GRANT (AHSC) AND AUTHORIZING THE CITY MANAGER OR HIS DESIGNEE, TO TAKE THE NECESSARY STEPS TO IMPLEMENT THE PROVISIONS OF THIS RESOLUTION**

WHEREAS, on November 1, 2019, the State of California's Round 5 issued a Notice of Funding Availability (NOFA) for \$550 million in funding under the AHSC program; and

WHEREAS, the City of Modesto and EAH submitted a joint grant application for funding in February 2020 for the development of Archway Commons; and

WHEREAS, on July 2020, the City received an AHSC award letter notifying the City the project was successfully awarded a grant in the amount of \$24,766,157 for housing & transportation related costs; and

WHEREAS, the grant also included Program Costs (PGM) Costs totaling \$490,000, one of the programs was the support of an outreach program conducted by Catholic Charities in partnership with the City of Modesto, the Stanislaus Council of Governments (StanCOG) and EAH Housing, to support outreach to the impacted communities of the Archway Commons Housing Development at 1101 Carver Road; and

WHEREAS, the program will complete outreach and education regarding the transit/transportation impact to the community and the related issues of air quality, healthy lifestyles and sustainable communities with a budget of \$58,333 per year to support staff-time for a three-year period for a total of \$175,000; and

WHEREAS, if approved the fiscal year 2022-2023 Multi-Year budget must be

amended.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby amends the fiscal year 2022-2023 multi-year fund budget to establish applicable revenue, expense and transfer budgets for the Catholic Charities Environmental Justice Program Agreement to be funded with the Affordable Housing and Sustainable Communities Grant (AHSC).

BE IT FURTHER RESOLVED that the City Manager or his designee is authorized to take the necessary steps to implement the provisions of this resolution.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 13th day of December, 2022, by Councilmember Wright, who moved its adoption, which motion being duly seconded by Councilmember Alvarez, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Alvarez, Bavaro, Escutia-Braaton, Ricci, Williams, Wright, Mayor Zwahlen

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST:

  
DIANE NAYARÉS-PÉREZ, CMC,  
City Clerk

(SEAL)

APPROVED AS TO FORM:

BY:

  
JOSE M. SANCHEZ, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2022-484**

**RESOLUTION APPROVING A NO-COST THIRD AMENDMENT TO EXTEND THE COMPLETION DATE TO JUNE 30, 2023, FOR THE CONSTRUCTION ZONE ENHANCED ENFORCEMENT PROGRAM (COZEEP) AGREEMENT NO. 19R465000 WITH THE STATE OF CALIFORNIA, DEPARTMENT OF HIGHWAY PATROL FOR THE STATE ROUTE 132 WEST FREEWAY/EXPRESSWAY PHASE 1 PROJECT, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE THIRD AMENDMENT**

WHEREAS, the purpose of the State Route 132 West Freeway/Expressway - Phase 1 Project is to improve regional and interregional circulation, relieve traffic congestion along existing State Route 132 (SR132), and enhance safety and operations for the existing and proposed transportation network; and

WHEREAS, the Phase 1 Project includes construction of an access-controlled, 2-lane expressway (one lane eastbound and one lane westbound) along a new alignment just south of Kansas Avenue starting from the east side of State Route 99 (SR99) at the west end of the Needham Street Bridge, westbound to Dakota Avenue and then along Dakota Avenue to the existing SR132/Maze Boulevard; and

WHEREAS, the Project also includes grade separations at Rosemore Avenue, Carpenter Avenue, Emerald Avenue, and SR99, and improvements to the 5<sup>th</sup> and 6<sup>th</sup> Street connections to the new SR132 expressway and the addition of an auxiliary lane at the northbound SR99 on-ramp at L Street; and

WHEREAS, during the construction of the SR132 project, work occurring within the SR99 right-of-way requires traffic control related services from the California Highway Patrol (CHP) to enhance both construction worker's safety and that of the traveling public within and adjacent to live traffic lanes of SR99; and

work occurring within the SR99 right-of-way requires traffic control related services from the California Highway Patrol (CHP); and

WHEREAS, Caltrans required implementation of Construction Zone Enhanced Enforcement Program (COZEEP) for this project; and

WHEREAS, prior to the CHP performing the services required of the COZEEP program an agreement was required between the City and CHP; and

WHEREAS, on December 10, 2019, by Resolution No. 2019-542, Council approved Agreement No. 19R465000 committing the City of Modesto to provide a maximum reimbursement amount of \$331,486 to the CHP for all traffic control related services provided to the project during the construction phase of the project, and provided a time frame of said services from November 1, 2019 to December 31, 2021; and

WHEREAS, on September 24, 2019, per Resolution No. 2019-439, Modesto City Council awarded a construction contract to Bay Cities Paving & Grading, and the original construction contract was for 565 working days; and

WHEREAS, bid Alternates A & B, which were included in the project because funding was available based on the winning bid, added approximately six months to the base bid construction schedule, in addition to a 3-year Plant Establishment Period; and

WHEREAS, construction began in December 2019, and was estimated to be completed in March of 2022, with closeout continuing through June 30, 2022; and

WHEREAS, the original COZEEP Agreement had an end date of December 31, 2021, and as a result a First Amendment to extend the end date of the COZEEP Agreement with CHP was necessary; and

WHEREAS, on October 12, 2021, per Resolution No. 2021-403, Council approved a First Amendment to the COZEEP Agreement, increasing the agreement amount by \$110,848, from \$331,486 for a total not to exceed amount of \$442,334, and also extended the term end date from December 31, 2021 to June 30, 2022; and

WHEREAS, the Project experienced a 100-year storm weather delay, delay due to smoke during the fires of 2021, and delay due to social distancing requirements of COVID-19 virus; and

WHEREAS, the SR-132 Project has experienced delays in completion due to a 100-year storm weather event, delays due to smoke during the fires of 2021, and delays due to social distancing requirements brought on by the COVID-19 virus, and as a result a Second Amendment to extend the end date of the COZEEP Agreement with CHP was necessary; and

WHEREAS, on June 14, 2022, per Resolution No. 2022-270, Council approved a no-cost Second Amendment to the COZEEP Agreement extending the term end date from June 30, 2022 to December 31, 2022; and

WHEREAS, WSP USA, the Construction Management Consultant for the SR132 project, has determined that we should extend the end term date for the COZEEP agreement to June 30, 2023, with a no-cost amendment; and

WHEREAS, while the project is substantially complete, WSP USA anticipates the project will likely need COZEEP services into early next year to take care of any warranty issues should they arise; and

WHEREAS, staff recommends approving this no-cost Third Amendment to the Construction Zone Enhanced Enforcement Program (COZEEP) Agreement No.

19R465000 with the State of California, Department of Highway Patrol for the project, to extend the term end date from December 31, 2022 to June 30, 2023.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves a no-cost Third Amendment to extend the completion date to June 30, 2023, for the Construction Zone Enhanced Enforcement Program (COZEEP) Agreement No. 19R465000 with the State of California, Department of Highway Patrol for the State Route 132 West Freeway/Expressway Phase 1 Project.

BE IT FURTHER RESOLVED, that the City Manager or his designee is hereby authorized to execute the Amendment to Agreement in a form approved by the City Attorney.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 13th day of December, 2022, by Councilmember Wright, who moved its adoption, which motion being duly seconded by Councilmember Alvarez, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Alvarez, Bavaro, Escutia-Braaton, Ricci, Williams, Wright, Mayor Zwahlen

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST:   
DIANE NAYARES-PEREZ, CMC,  
City Clerk

(SEAL)

APPROVED AS TO FORM:

BY:   
JOSE M. SANCHEZ, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2022-485**

**RESOLUTION APPROVING AN OUTSIDE SERVICE AGREEMENT WITH PASTOR OF HOLY FAMILY CHURCH, A CALIFORNIA CORPORATION TO CONNECT TO THE CITY OF MODESTO'S EXISTING WATER SYSTEM FOR THE PROPERTY LOCATED AT 4524 TULLY ROAD IN MODESTO (APN: 046-012-005) AND AUTHORIZING THE CITY MANAGER OR HIS DESIGNEE, TO EXECUTE THE OUTSIDE SERVICE AGREEMENT**

WHEREAS, Pastor Of Holy Family Church, a California corporation, owns property located at 4524 Tully Road; and

WHEREAS, the owner is proposing to construct a 20,000 square foot church building and related structures on the property; and

WHEREAS, a representative of the property owner has requested water service; and

WHEREAS, on May 22, 2012, the City Council approved Resolution No. 2012-202 that amended City Council Policy 5.001; and

WHEREAS, on June 5, 2012, the City Council approved final adoption of Ordinance No. 3566-C.S. amending City of Modesto Municipal Code Section 11-1.05; and

WHEREAS, both of these amendments included language which required that the City Manager, upon the recommendation of the Director responsible for utility system planning, request City Council approval for all extensions of water services into unincorporated areas; and

WHEREAS, on November 25, 2014, the City Council approved Resolution No. 2014-472 that amended City Council Policy 5.001; and

WHEREAS, on December 9, 2014, the City Council approved adoption of Ordinance No. 3611-C.S. amending City of Modesto Municipal Code Section 11-1.05; and

WHEREAS, both of these amendments included language allowing the City Manager upon the recommendation of the Director responsible for utility system planning, to approve standard agreements of service for extension of water services into certain unincorporated areas that are located within the former Del Este Water Service Area without City Council approval; and

WHEREAS, the property located at 4524 Tully Road is not located within the former Del Este Water Service area and therefore requires City Council approval prior to allowing the new water service connection; and

WHEREAS, it has been determined that a sufficient quantity of potable water is available for normal usage by the proposed development; and

WHEREAS, the water connection fees will be paid and associated permits be obtained prior to beginning any on site construction; and

WHEREAS, on November 6, 2013, the City Council approved Resolution No. 2013-405 approving a Will Serve Letter for water connection at 4524 Tully Road; and

WHEREAS, the property owner has executed an Outside Service Agreement for Water Service as required to receive water service outside of City limits.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves an Outside Service Agreement with Pastor of Holy Family Church, a California Corporation to connect to the City of Modesto's existing for Water Service for the property located at 4524 Tully Road in Modesto (APN: 046-012-005).

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 13th day of December, 2022, by Councilmember Wright, who moved its adoption, which motion being duly seconded by Councilmember Alvarez, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Alvarez, Bavaro, Escutia-Braaton, Ricci, Williams, Wright, Mayor Zwahlen

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST:

  
DIANE NAYARES-PEREZ, CMC,  
City Clerk

(SEAL)

APPROVED AS TO FORM:

BY:

  
JOSE M. SANCHEZ, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2022-486**

**RESOLUTION APPROVING A TWO-YEAR RETAIL AND LEGAL  
ADVERTISING CONTRACT WITH THE MCLATCHY COMPANY LLC DBA  
MODESTO BEE IN THE AMOUNT NOT TO EXCEED \$125,000; AND  
AUTHORIZING THE CITY MANAGER OR HIS DESIGNEE TO EXECUTE  
THE AGREEMENT**

WHEREAS, the Modesto Bee is used for the advertisement of retail classified and legal advertisements as required by law, and for retail advertisements for public information purposes; and

WHEREAS, on December 8, 2022 under Resolution 2020-513, Council approved a two-year retail and legal advertising contract with the Modesto Bee in the amount of \$200,000. This current agreement is scheduled to expire on December 31, 2022; and

WHEREAS, the City is currently afforded a non-profit, no commitment daily rate of \$31.00 per column inch (pci) for retail and \$25.08 per column inch for legal for one run and \$20.26 per column inch for multiple consecutive run including additional color charges, if needed; and

WHEREAS, the \$31.00 and \$25.08 per column inch rate will continue through December 30, 2024 and any digital targeted audience rate will range from \$10.00 to \$15.00 cost per mile (cpm); and

WHEREAS, Modesto Municipal Code (MMC) Section 8-3.204 (b) states, “All Purchases in excess of fifty thousand dollars (\$50,000), or when directed by the City Manager for any purchase of fifty thousand dollars or less, shall follow formal bid procedures, except for the following, which shall be exempt from the bid requirements: Where the Purchasing Agency’s requirements can be met solely by a single article or

process.” The City will continue to meet its legal advertising requirements by using the Modesto Bee; and

WHEREAS, legal Notice advertisements are legally required for all City public notices and hearings which must be officially advertised through a newspaper of general circulation; and

WHEREAS, the City is also required to comply with State requirements for advertising related to escheat property which requires similar types of rules through a local newspaper; and

WHEREAS, The City of Modesto currently has only one local newspaper that qualifies as a newspaper of general circulation, which is the Modesto Bee newspaper.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves a two-year Retail and Legal Advertising Contract with the McClatchy Company LLC dba Modesto Bee in the amount not to exceed \$125,000.

BE IT FURTHER RESOLVED, that the City Manager, or his designee, is hereby authorized to execute the agreement, in a form approved by the City Attorney.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 13th day of December, 2022, by Councilmember Wright, who moved its adoption, which motion being duly seconded by Councilmember Alvarez, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Alvarez, Bavaro, Escutia-Braaton, Ricci, Williams, Wright, Mayor Zwahlen

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST:   
DIANE NAYARES-PEREZ, CMC,  
City Clerk

(SEAL)

APPROVED AS TO FORM:

BY:   
JOSE M. SANCHEZ, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2022-487**

**RESOLUTION APPROVING THE COMPETITIVE BIDDING PROCESS FROM SOURCEWELL WITH TEREX UTILITIES INC., WATERTOWN, SD FOR TWO (2) AERIAL TRUCKS FOR A TOTAL AMOUNT NOT TO EXCEED \$751,900; AND AUTHORIZING THE PURCHASING MANAGER, OR HER DESIGNEE, TO ISSUE THE PURCHASE ORDER; AND AUTHORIZING THE PURCHASING MANAGER OR HER DESIGNEE TO EXECUTE ANY CHANGE ORDERS NOT TO EXCEED 15% OF THE TOTAL PURCHASE PRICE**

WHEREAS, every year, City vehicles and equipment are individually evaluated based on their age, condition, mileage and maintenance costs); and

WHEREAS, once a unit is replaced and placed into City service, funds for its replacement are charged out as monthly recurring charges until the end of the unit's service life; and

WHEREAS, on July 22, 2020, Sourcewell issued Request for Proposals (RFP) #110421-TER for Public Utility Equipment with Related Accessories & Supplies on the Sourcewell and New York State Contract Reporter website, USA Today, South Carolina – The State, and Oklahoman; and

WHEREAS, on November 4, 2021, proposals were formally opened; and

WHEREAS, ten (10) proposals were received and based on the Sourcewell Proposal Review Committee and criteria outlines in the RFP, six contracts were awarded for various Public Utility Equipment with Related Accessories & Supplies which includes the Aerial Trucks; and

WHEREAS, the use of state contracts are cooperative agreements to streamline the procurement process by developing RFBs or RFP's for national competitive solicitations that meet or exceed local requirements; and

WHEREAS, Modesto Municipal Code Section 8-3.203 generally requires all purchases that meet or exceed \$50,000 for material, equipment or contractual services to be formally bid. However, exceptions to the formal bidding process are granted in MMC 8-3.204(d) “Where the Purchasing Manager, in her discretion, determines that a process other than the formal bid procedure set for 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, MMC 8-3.202(h) encourages the Purchasing Manager to join with the State of California or other units of government in cooperative purchasing plans when the best cost savings interest of the City would be served.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the competitive bidding process from Sourcewell with Terex Utilities Inc., Watertown, SD for two (2) Aerial Trucks for a total amount not to exceed \$751,900.

BE IT FURTHER RESOLVED that the Purchasing Manager, or her designee, is hereby authorized to execute the Purchase Order.

BE IT FURTHER RESOLVED that the Purchasing Manager or her designee to execute any change orders not to exceed 15% of the total purchase price.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 13th day of December, 2022, by Councilmember Wright, who moved its adoption, which motion being duly seconded by Councilmember Alvarez, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Alvarez, Bavaro, Escutia-Braaton, Ricci, Williams, Wright, Mayor Zwahlen

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST:   
DIANE NAYARES-REREZ, CMC,  
City Clerk

(SEAL)

APPROVED AS TO FORM:

BY:   
JOSE M. SANCHEZ, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2022-488**

**RESOLUTION APPROVING AN AGREEMENT WITH RTI INTERNATIONAL FOR EVALUATION SERVICES FOR THE BOARD OF STATE AND COMMUNITY CORRECTIONS CALIFORNIA VIOLENCE INTERVENTION AND PREVENTION GRANT PROGRAM IN AN AMOUNT NOT TO EXCEED \$154,955 OVER THREE YEARS; AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE AGREEMENT**

WHEREAS, on February 1, 2022, the City Council approved the submission of a grant application for the Board of State and Community Corrections (BSCC) California Violence Intervention and Prevention (CalVIP) Grant Program by Resolution No. 2022-070; and

WHEREAS, on July 12, 2022, the City Council approved to accept the BSCC CalVIP Grant by Resolution No. 2022-305; and

WHEREAS, the Modesto Police Department (MPD) was awarded the BSCC CalVIP Grant in the amount of \$2,215,217 in grant funds with a 100% match requirement of \$2,215,217; and

WHEREAS, the grant requires 5-10% of the total grant funds be used to seek outside services for a Local Evaluation Plan and ongoing grant evaluation measures; and

WHEREAS, based on the above-mentioned requirement and the complexities of the Modesto BSCC CalVIP grant, \$155,000, or 7.5%, was allocated for program evaluation services; and

WHEREAS, RTI International is an independent, nonprofit research institute with a proven ability to perform the BSCC required services; and

WHEREAS, RTI International has been fully vetted and valued with the Federal General Services Administration (GSA) and have worked on similar projects successfully; and

WHEREAS, in accordance with MMC Section 8-3.204(a), Exceptions to Formal Bidding Requirements, the agreement is for professional services and, therefore, exempt from the bidding requirement; and

WHEREAS, the approval for the grant program evaluation services to RTI International conforms to MMC 8.3-204, subsection (a) as they are providing professional services for the MPD's BSCC CalVIP grant program inclusive of a Local Evaluation Plan, quarterly performance reporting, statistical and evaluation measurements and the final grant program evaluation as required in the BSCC CalVIP grant agreement.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves entering into an agreement with RTI International for the evaluation services of the Board of State and Community Corrections California Violence Intervention and Prevention Grant Program in an amount not to exceed \$154,955.

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 December, 2022, by Councilmember Wright, who moved its adoption, which motion being duly seconded by Councilmember Alvarez, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Alvarez, Bavaro, Escutia-Braaton, Ricci, Williams, Wright, Mayor Zwahlen

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST:   
DIANE NAYARES-PEREZ, CMC,  
City Clerk

(SEAL)

APPROVED AS TO FORM:

BY:   
JOSE M. SANCHEZ, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2022-489**

**RESOLUTION APPROVING AN ON-CALL AGREEMENT FOR  
HYDROGEOLOGICAL SERVICES WITH LUHDORFF & SCALMANINI,  
CONSULTING ENGINEERS, WOODLAND, CA, FOR ONE YEAR, WITH TWO  
ONE-YEAR EXTENSION OPTIONS, FOR AN ANNUAL AMOUNT NOT TO  
EXCEED \$75,000, AND A TOTAL AMOUNT NOT TO EXCEED \$225,000 OVER  
THREE YEARS, AND AUTHORIZING THE CITY MANAGER, OR HIS  
DESIGNEE TO EXECUTE THE AGREEMENT**

WHEREAS, the City faces water supply challenges, including regional competition for limited groundwater and the loss of wells due to contamination, and will require hydrogeological related services to assist City staff in addressing these issues, and

WHEREAS, qualified hydrogeologists can determine which underground soil layers to utilize to produce the cleanest water and determine the effect it will have on the well's final delivery capacity, and

WHEREAS, the current Capital Improvement Program includes plans to construct various new and replacement wells in support of the City's water system, and

WHEREAS, on-call professional service consultants can provide designs for small projects using experienced staff and eliminate the need to send out repetitive Requests for Qualifications for projects of similar scope and/or type, saving staff time and project costs, and

WHEREAS, in accordance with Modesto Municipal Code 8-3.204(a), Exceptions to Formal Bidding Requirements, this agreement for professional services is exempt from the bid requirement, and

WHEREAS, per Administrative Directive 3.1: Selection Procedures for Professional Consultants who Provide Architectural & Engineering Services for Capital

Projects, the Director at his direction, may secure a candidate firm if it is in the best interest of the City, and

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves an On-Call Agreement for Hydrogeological Services with Luhdorff & Scalmanini, Consulting Engineers, Woodland, CA, for one year with two one-year extension options, for an annual cost not to exceed \$75,000, and a total cost not to exceed \$225,000 over three years.

BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to execute the Agreement, in a form approved by the City Attorney.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 13th day of December, 2022, by Councilmember Wright, who moved its adoption, which motion being duly seconded by Councilmember Alvarez, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Alvarez, Bavaro, Escutia-Braaton, Ricci, Williams, Wright, Mayor Zwahlen

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST:   
DIANE NAYARES-PEREZ, CMC,  
City Clerk

(SEAL)

APPROVED AS TO FORM:

BY:   
JOSE M. SANCHEZ, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2022-490**

**RESOLUTION APPROVING AN ON-CALL AGREEMENT FOR  
HYDROGEOLOGICAL SERVICES WITH WEST YOST ASSOCIATES, DAVIS,  
CA, FOR ONE YEAR, WITH TWO ONE-YEAR EXTENSION OPTIONS, FOR  
AN ANNUAL AMOUNT NOT TO EXCEED \$75,000, AND A TOTAL AMOUNT  
NOT TO EXCEED \$225,000 OVER THREE YEARS, AND AUTHORIZING THE  
CITY MANAGER, OR HIS DESIGNEE TO EXECUTE THE AGREEMENT**

WHEREAS, the City faces water supply challenges, including regional competition for limited groundwater and the loss of wells due to contamination, and will require hydrogeological related services to assist City staff in addressing these issues, and

WHEREAS, qualified hydrogeologists can determine which underground soil layers to utilize to produce the cleanest water and determine the effect it will have on the well's final delivery capacity, and

WHEREAS, the current Capital Improvement Program includes plans to construct various new and replacement wells in support of the City's water system, and

WHEREAS, on-call professional service consultants can provide designs for small projects using experienced staff and eliminate the need to send out repetitive Requests for Qualifications for projects of similar scope and/or type, saving staff time and project costs, and

WHEREAS, in accordance with Modesto Municipal Code 8-3.204(a), Exceptions to Formal Bidding Requirements, this agreement for professional services is exempt from the bid requirement, and

WHEREAS, per Administrative Directive 3.1: Selection Procedures for Professional Consultants who Provide Architectural & Engineering Services for Capital

Projects, the Director at his direction, may secure a candidate firm if it is in the best interest of the City, and

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves an On-Call Agreement for Hydrogeological Services with West Yost Associates, Davis, CA, for one year with two one-year extension options, for an annual cost not to exceed \$75,000, and a total cost not to exceed \$225,000 over three years.

BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to execute the Agreement, in a form approved by the City Attorney.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 13th day of December, 2022, by Councilmember Wright, who moved its adoption, which motion being duly seconded by Councilmember Alvarez, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Alvarez, Bavaro, Escutia-Braaton, Ricci, Williams, Wright, Mayor Zwahlen

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST:   
DIANE NAYARES-PEREZ, CMC,  
City Clerk

(SEAL)

APPROVED AS TO FORM:

BY:   
JOSE M. SANCHEZ, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2022-491**

**RESOLUTION APPROVING A PREQUALIFIED CONSULTANT LIST FOR  
HYDROGEOLOGICAL SERVICES, FOR VARIOUS CAPITAL  
IMPROVEMENT PROGRAM PROJECTS FOR A PERIOD OF ONE YEAR,  
WITH THE OPTION OF TWO ADDITIONAL ONE-YEAR EXTENSIONS AT  
THE WRITTEN APPROVAL OF THE UTILITIES DEPARTMENT DIRECTOR**

WHEREAS, there are a number of Capital Improvement Program projects that may require outside consultant services for efficient project delivery, and

WHEREAS, retaining a prequalified, list of consultants allows the Utilities Department to have accelerated access to hydrogeological services, when needed, and

WHEREAS, this will eliminate the need to send out repetitive Requests for Qualifications for projects of similar scope and/or type, saving staff time and project costs, and

WHEREAS, in accordance with Administrative Directive 3.1, Selection Procedures for Professional Consultants Who Provide Architectural & Engineering Services for Capital Projects, which is in compliance with State of California Government Code, Sections 4526-4529, staff solicited and formally advertised a Request for Qualifications through Planet Bids for hydrogeological services, and

WHEREAS, staff received nine Statements of Qualifications for hydrogeological services, and

WHEREAS, after careful review of the Statements of Qualifications by Utilities Department staff, the following four firms were selected for the prequalified list:

- Daniel Stephens & Associates, Inc., Santa Barbara, CA
- Luhdorff & Scalmanini, Consulting Engineers, Inc., Woodland, CA
- West Yost Associates, Inc., Davis, CA

- Woodard & Curran, Inc., Sacramento, CA

WHEREAS, this prequalified consultant list will be active for one year from the date of Council approval, at which time the City may extend the list for two additional one-year extensions at the written approval of the Utilities Department Director, and

WHEREAS, in the event the firms listed on the prequalified list are deemed to lack experience or expertise for specific projects, the City retains the right to recruit consultants for individual projects and not be restricted to the approved list, and

WHEREAS, a formal process will be conducted should this situation occur.

NOW, THEREFORE BE IT RESOLVED by the Council of the City of Modesto that it hereby approves a prequalified consultant list for hydrogeological services, consisting of the following firms:

- Daniel Stephens & Associates, Inc., Santa Barbara, CA
- Luhdorff & Scalmanini, Consulting Engineers, Inc., Woodland, CA
- West Yost Associates, Inc., Davis, CA
- Woodard & Curran, Inc., Sacramento, CA


for various Capital Improvement Program projects for a period of one year, with the possibility of two additional one-year extensions at the written approval of the Utilities Department Director.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 13th day of December, 2022, by Councilmember Wright, who moved its adoption, which motion being duly seconded by Councilmember Alvarez, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Alvarez, Bavaro, Escutia-Braaton, Ricci, Williams, Wright, Mayor Zwahlen

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST:   
DIANE NAYARÉS-PÉREZ, CMC,  
City Clerk

(SEAL)

APPROVED AS TO FORM:

BY:   
JOSE M. SANCHEZ, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2022-492**

**RESOLUTION APPROVING AN AGREEMENT WITH WEST MONROE, INC., LOS ANGELES, CA, FOR CONSULTING SERVICES FOR THE ADVANCED METERING INFRASTRUCTURE PROJECT IN THE AMOUNT OF \$440,250, PLUS \$44,025 IN ADDITIONAL SERVICES, IF NEEDED, FOR A TOTAL AMOUNT NOT TO EXCEED \$484,275; AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE AGREEMENT**

WHEREAS, the City's Utilities Department is preparing to make changes to the current meter data collections through the deployment of Advanced Metering Infrastructure (AMI) technology, and

WHEREAS, the City would like to evaluate and procure AMI systems and services that are beneficial and adequate for the City's Utilities, Finance, and Information Technology Departments, and

WHEREAS, in accordance with newly adopted State legislation SB 606 and AB 1668, the State is mandating water agencies to set and meet new urban efficiency standards for indoor use, outdoor use and water lost due to leaks, and

WHEREAS, transitioning to AMI and establishing an AMI program will improve metering technology to allow for enhanced demand tracking, management and identify areas easily where there is apparent water loss, and

WHEREAS, in accordance with Modesto Municipal Code 8-3.204(a) Exceptions to Formal Bidding Requirements, this agreement is for professional services and, therefore, exempt from the bidding requirement.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves an agreement with West Monroe, Inc., of Los Angeles, CA for Consultant Services for the Advanced Metering Infrastructure Project in the amount of

\$440,250, for the identified scope of services, plus \$44,025 in additional services, if needed, for a total not to exceed amount of \$484,275.

BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to execute the agreement in a form approved by the City Attorney.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 13th day of December, 2022, by Councilmember Wright, who moved its adoption, which motion being duly seconded by Councilmember Alvarez, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Alvarez, Bavaro, Escutia-Braaton, Ricci, Williams, Wright, Mayor Zwahlen

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST:   
DIANE NAYARES-PEREZ, CMC,  
City Clerk

(SEAL)

APPROVED AS TO FORM:

BY:   
JOSE M. SANCHEZ, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2022-493**

**RESOLUTION AMENDING THE FISCAL YEAR 2022-23 MULTI-YEAR  
PROGRAM BUDGET IN THE AMOUNT OF \$535,000 TO BE TRANSFERRED  
INTO THE PROJECT FROM WATER FUND RESERVES IN ORDER TO FUND  
THE ADVANCED METERING INFRASTRUCTURE PROJECT**

WHEREAS, certain budgetary transactions are necessary in the amount of \$535,000, in order to fund the Advanced Metering Infrastructure (AMI) Project, and

WHEREAS, the Fiscal Year 2022-23 Multi-Year Program Budget must be amended.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the amendment of the Fiscal Year 2022-23 Multi-Year Program Budget in the amount of \$535,000.

BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to implement the provisions of this resolution.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 13th day of December, 2022, by Councilmember Wright, who moved its adoption, which motion being duly seconded by Councilmember Alvarez, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Alvarez, Bavaro, Escutia-Braaton, Ricci, Williams, Wright, Mayor Zwahlen

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST:   
DIANE NAYARES-PEREZ, CMC,  
City Clerk

(SEAL)

APPROVED AS TO FORM:

BY:   
JOSE M. SANCHEZ, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2022-494**

**RESOLUTION APPROVING AN AGREEMENT WITH CAROLLO ENGINEERS, INC., WALNUT CREEK, CA, FOR ENGINEERING SERVICES FOR THE EAST MORRIS SEWER REPLACEMENT PROJECT IN THE AMOUNT OF \$1,800,000, PLUS \$180,000 IN ADDITIONAL SERVICES, IF NEEDED, FOR A TOTAL AMOUNT NOT TO EXCEED \$1,980,000; AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE AGREEMENT**

WHEREAS, in 2016, the Wastewater Engineer's Report was approved to provide a basis for establishing wastewater related charges, fees and identified needed

Wastewater Capital Improvement Program Projects, and

WHEREAS, in 2021, the updated Wastewater Engineer's Report included the rehabilitation of the existing sewer lines in the East Morris Ave area, identified as project "D-1" in Area 4, and

WHEREAS, the East Morris Sewer Replacement Project will upsize numerous sewer lines and will address the existing slope issues, bringing it to compliance with current City standard, and

WHEREAS, to increase efficiencies, the City has requested the use of a consultant to provide engineering services for the East Morris Sewer Replacement Project and

WHEREAS, in accordance with Modesto Municipal Code 8-3.204(a) Exceptions to Formal Bidding Requirements, this agreement is for professional services and, therefore, exempt from the bidding requirement.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves an agreement with Carollo Engineers, Inc., of Walnut Creek, CA for Engineering Services for the East Morris Sewer Replacement Project in the amount of

\$1,800,000, for the identified scope of services, plus \$180,000 in additional services, if needed, for a total not to exceed amount of \$1,980,000.

BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to execute the agreement in a form approved by the City Attorney.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 13th day of December, 2022, by Councilmember Wright, who moved its adoption, which motion being duly seconded by Councilmember Alvarez, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Alvarez, Bavaro, Escutia-Braaton, Ricci, Williams, Wright, Mayor Zwahlen

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST:

  
DIANE NAYARES-PEREZ, CMC,  
City Clerk

(SEAL)

APPROVED AS TO FORM:

BY:

  
JOSE M. SANCHEZ, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2022-495**

**RESOLUTION APPROVING PLANS AND SPECIFICATIONS FOR THE JENNINGS COMMAND CENTER AND HAHN LIFTSTATION RESTROOM PROJECT, ACCEPTING THE BID, AND APPROVING A CONSTRUCTION CONTRACT WITH HARRIS BUILDERS INC, OF HILMAR, CA, IN THE AMOUNT OF \$542,277 PLUS \$81,342 FOR CONTINGENCY (IF NEEDED) FOR A TOTAL AMOUNT NOT TO EXCEED \$623,619 AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE AGREEMENT**

WHEREAS, the Command Center building at Jennings is an upgrade to the previous Phase 1A Tertiary trailer at the Jennings Treatment Plant, and

WHEREAS, previously, O&M staff worked out of a mobile trailer that was left over after the construction of the Phase 1A Treatment Facility was completed, and

WHEREAS, the trailer was never intended to be permanent and has since become unsuitable for treatment plant operation at Phase 1A due to multiple factors as roof leaks, deteriorating floors, failing AC for SCADA servers, and

WHEREAS, a replacement building will be constructed, that will match architecturally the existing buildings at the Phase 1A facility and will provide Wastewater Operations an office for SCADA terminals, business computers and a small restroom for operators to wash up during their work shift at the facility, and

WHEREAS, at the Hahn Lift Station, which is located at 3200 Nightingale Dr., a new restroom will be constructed which will allow the City O&M personnel to wash up during their maintenance work, and

WHEREAS, plans and specifications have been prepared for the Jennings Command Center and Hahn Liftstation Restroom Project, and

WHEREAS, the Project was advertised for bids on September 7, 2022, and

WHEREAS, on October 4<sup>th</sup>, 2022, bids were publicly opened, pursuant to City Charter Section 1307, two bids were received and Harris Builders Inc, of Hilmar, CA, was the responsible bidder with the lowest responsive bid, and

WHEREAS, MMC 8-3.203 states that all purchases, in excess of fifty thousand dollars (\$50,000), or when directed by the City Manager for any purchase of fifty thousand dollars (\$50,000) or less, shall follow formal bid procedures, and

WHEREAS, and the award of bid for the Jennings Command Center and Hahn Liftstation Restroom Project conforms to the Modesto Municipal code based on providing the overall lowest cost, while providing improved service, and

WHEREAS, the Director of Utilities has recommended that the bid of \$542,277 received from Harris Builders Inc, of Hilmar, CA, be accepted as the lowest responsible and responsive bid and the contract be awarded to Harris Builders Inc, of Hilmar, CA.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the plans and specifications for the Jennings Command Center and Hahn Liftstation Restroom Project and accepts the bid of \$542,277 plus \$81,342 for contingency (if needed) for a total amount not to exceed \$623,619 and Harris Builders Inc, of Hilmar, CA, the contract for the Jennings Command Center and Hahn Liftstation Restroom Project.

BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to execute the contract, in a form approved by the City Attorney.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 13th day of December, 2022, by Councilmember Wright, who moved its adoption, which motion being duly seconded by Councilmember Alvarez, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Alvarez, Bavaro, Escutia-Braaton, Ricci, Williams, Wright, Mayor Zwahlen

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST:   
DIANE NAYARÉS-PÉREZ, CMC,  
City Clerk

(SEAL)

APPROVED AS TO FORM:

BY:   
JOSE M. SANCHEZ, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2022-496**

**RESOLUTION AUTHORIZING AN INCREASE IN THE DIRECTOR'S  
AUTHORITY TO ISSUE CHANGE ORDERS FOR THE JENNINGS COMMAND  
CENTER AND HAHN LIFTSTATION RESTROOM PROJECT FROM 10%  
(\$54,228) TO 15% (\$81,342) OF THE CONSTRUCTION CONTRACT PRICE OF  
\$542,277 WITH HARRIS BUILDERS INC, OF HILMAR, CA**

WHEREAS, the City's "Change Order Approval Policy", enacted by Council Resolution No. 94-443 on July 19, 1994, and updated by Resolution No. 2019-326 on July 9, 2019, established a contract change order budget of 10% for projects with the construction value between \$250,000 and \$1 Million, and

WHEREAS, given the nature of this project dealing with existing facilities, multiple existing underground utility lines with multiple unknowns, additional work may be needed to address unexpected conditions that require changes in the project scope that may exceed the Director's Authority of 10% (\$54,228) of the contract amount of \$542,277, and

WHEREAS, staff is requesting authorization to increase the Directors authority to issue change orders to 15% (\$81,342) of the contract amount of \$542,277.


NOW, THEREFORE BE IT RESOLVED by the Council of the City of Modesto that it hereby authorizes the Director of Utilities to issue change orders for Jennings Command Center and Hahn Liftstation Restroom Project from 10% (\$54,228) to 15% (\$81,342) of the construction contract price of \$542,277 with Harris Builders Inc, of Hilmar, CA.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 13th day of December, 2022, by Councilmember Wright, who moved its adoption, which motion being duly seconded by Councilmember Alvarez, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Alvarez, Bavaro, Escutia-Braaton, Ricci, Williams, Wright, Mayor Zwahlen

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST:   
DIANE NAYARES-PEREZ, CMC,  
City Clerk

(SEAL)

APPROVED AS TO FORM:

BY:   
JOSE M. SANCHEZ, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2022-497**

**RESOLUTION AMENDING THE FISCAL YEAR 2022-2023 CAPITAL IMPROVEMENT PROGRAM BUDGET IN THE AMOUNT OF \$841,619 TO BE TRANSFERRED INTO THE PROJECT FROM WASTEWATER RESERVES TO FULLY FUND THE CONSTRUCTION, CONTINGENCY, CONSTRUCTION ADMINISTRATION AND DESIGN SUPPORT DURING CONSTRUCTION FOR THE JENNINGS COMMAND CENTER AND HAHN LIFTSTATION RESTROOM PROJECT AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO IMPLEMENT THE PROVISIONS OF THIS RESOLUTION**

WHEREAS, on October 4<sup>th</sup>, 2022, bids were publicly opened, pursuant to City Charter Section 1307, and

WHEREAS, two bids were received, and

WHEREAS, in order to fully fund the construction, contingency, construction administration and design support during construction for the Jennings Command Center and Hahn Liftstation Restroom Project, and

WHEREAS, the Fiscal Year 2022-23 Capital Improvement Program Budget must be amended.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the amendment of the Fiscal Year 2022-23 Capital Improvement Program Budget in the amount of \$841,619 to be transferred into the project from Wastewater Fund Reserves.

BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to implement the provisions of this resolution.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 13th day of December, 2022, by Councilmember Wright, who moved its adoption, which motion being duly seconded by Councilmember Alvarez, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Alvarez, Bavaro, Escutia-Braaton, Ricci, Williams, Wright, Mayor Zwahlen

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST:   
DIANE NAYARES-PEREZ, CMC,  
City Clerk

(SEAL)

APPROVED AS TO FORM:

BY:   
JOSE M. SANCHEZ, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2022-498**

**RESOLUTION APPROVING COMMUNITY POLICE REVIEW BOARD  
BYLAWS**

WHEREAS, the City of Modesto is seeking to establish a Community Police Review Board (CPRB) in conjunction with contracting the services of an Independent Police Auditor (IPA); and

WHEREAS, the establishment of a Community Police Review Board as a dual component of a hybrid police accountability model, is the culmination of the efforts of the Forward Together work group created on June 8, 2021 by Council Resolution No. 2021-216; and

WHEREAS, for over a year, the work group held a series of public workshops and ad hoc meetings focused on the issue of improving police-community relations in the City of Modesto; and

WHEREAS, based on the Forward Together work group's recommendations, staff identified the IPA and CPRB as foundational accountability components and the appropriate initial elements to implement; and

WHEREAS, a result of input received at the September 30, 2022, Council Workshop focused on police accountability models, staff has developed the scope of work (SOW) for the IPA; and

WHEREAS, in general, the role of the CPRB will follow best practices as modeled after the National Association of Civilian Oversight Boards for Law Enforcement (NACOLE) and as suited for the needs of the City of Modesto to carry out improved community relations with the Modesto Police Department; and

WHEREAS, the CPRB shall be comprised of nine (9) members who reside within

the city limits with preference provided to residents representing diverse ethnicity, gender, professional experience, organizational affiliations and neighborhoods/districts in Modesto; and

WHEREAS, all applicants to be a member of the CPRB will be required to undergo background checks.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the Bylaws for the Community Police Review Board as shown in **Exhibit “A” attached** hereto and incorporated herein by reference.


BE IT FURTHER RESOLVED that the Modesto Police Department is hereby authorized to access state and federal level summary criminal history information for all applicants to be members of the Community Police Review Board for the purpose of conducting background checks, as long as such information is not disseminated to a private entity.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 13th day of December, 2022, by Councilmember Ricci, who moved its adoption, which motion being duly seconded by Councilmember Alvarez, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Alvarez, Bavaro, Escutia-Braaton, Ricci, Williams, Wright, Mayor Zwahlen

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST:   
DIANE NAYARÉS-PÉREZ, CMC,  
City Clerk

(SEAL)

APPROVED AS TO FORM: .....

BY:   
JOSE M. SANCHEZ, City Attorney

# **COMMUNITY POLICE REVIEW BOARD BYLAWS**

## **ARTICLE I**

### **ORGANIZATION**

#### Section 1.1 Establishment

The Community Police Review Board of the City of Modesto is established by Modesto City Council Ordinance No. XX, as recommended by the Forward Together working group. Pursuant to Council Resolution No. 2022-358 on August 23, 2022 the Forward Together working group report was accepted by the Council. Included in the report was the recommendation to establish a community oversight board and independent police auditor for the City of Modesto.

#### Section 1.2 Background

The Forward Together initiative was catalyzed as a response to calls for police reform intensifying across the country and at our local level. Its formation was also a reflection of a commitment to strong relationships and trust between the community and law enforcement. On May 22, 2021, Council conducted a listening session to collect community input. As a result of the listening session, the following themes emerged and were confirmed by Council:

- Policies and Practices – that support safety, fairness and equity throughout the department and the community.
- Alternate Response Models – that ensure the right type of response and resources are applied to a situation.
- Accountability – for police conduct, decisions and how they impact the Modesto community.

Pursuant to Council Resolution No. 2021-216 on June 8, 2021, the Forward Together working group was created by the City Council and tasked with researching these specific themes relative to policing, engaging the broader community in the process and ultimately returned to Council with a set of recommendations to improve the police-community relations in the City of Modesto. The creation of a hybrid accountability model involving a Community Police Review Board and Independent Auditor were among these recommendations.

#### Section 1.3 Membership

- A. Members interested in serving on the CPRB shall complete the City's application process. Applications will be screened for completeness before being presented to the Appointments Committee for consideration.
- B. The CPRB shall be comprised of nine (9) members who reside within the city limits with preference provided to residents representing diverse ethnicity, gender, sexual orientation, professional experience, organizational affiliations and neighborhoods/districts in Modesto.
- C. CPRB members shall be registered electors of the City and each will have involvement or interest in improving the relationship between MPD and the Modesto community.
- D. As part of the selection process, the Appointments Committee will conduct interviews of all CPRB applicants.
- E. All appointments to the CPRB shall be recommended by the City's Appointments Committee and approved by the City Council.
- F. No Member of the CPRB shall be an employee of the City, nor of any bargaining unit for employees of the City, nor a person who receives compensation from the City.
- G. No Member of the CPRB shall be a relative, by blood or marriage within the third degree of the Mayor, a Councilmember, a Charter Officer, or any Department Director.
- H. CPRB service is entirely voluntary and without compensation. Members may receive reimbursement for necessary training and travel incurred as a part of their official duty when such expenditures have been approved in advance by the City Manager.
- I. All Members must complete a Statement of Economic Interest (Form 700) by April 1st of each year and when assuming or leaving CPRB membership.
- J. Members must reside in the City of Modesto for at least one year prior at the time of appointment and must reside in the City of Modesto during the entire tenure of service and be at least 18 years of age at the time of the application submittal.
- K. Members will be expected to be fair, impartial and committed to community service, ability to build working relations, and communicate effectively with diverse groups.

- L. All applicants for the CPRB will be subject to background checks. No person who illustrates behavior or conduct not consistent with the purpose of the CPRB, as determined by the City Manager, shall be eligible to serve on the CPRB.
- M. CPRB members shall not hold a current sworn officer position or be an employee of any law enforcement agency.
- N. Retired or former Modesto Police Department personnel shall not be eligible to serve on the CPRB.
- O. No person who has a pending claim or litigation against the City of Modesto shall be eligible to serve on the CPRB.

Section 1.4 Terms of Office

- A. The CPRB shall consist of nine qualified persons, comprised of the following:

<b>Seat Designation</b>	<b>Term</b>
Chairperson	One year, voted by simple majority of CPRB.
Vice Chairperson	One year, voted by simple majority of CPRB.
Members	Four years, appointed by Council.

- B. Members shall serve for a term of four years. If reappointed, incumbent members may serve a second, four-year term. Special consideration shall be given first to eligible incumbent members, then to eligible applicants.
- C. Each member is to hold office for no more than two terms consecutively.
- D. Members representing seats 1-5 shall have their terms expire on June 30 of the respective odd numbered years. Members in seats 6-9 shall have their terms expire on June 30 of the respective even numbered years.
- E. Members representing seats 1-5 shall have their initial term expire on 2027 and members in seats 6-9 shall have their term expire on 2028).
- F. Members may serve no more than two (2) terms.
- G. Appointments to fill vacancies on the CPRB shall be handled in the same manner as the original appointments. When a vacancy occurs during a term, the appointment to fill such vacancy shall be for the unexpired portion of the term. If a member is serving an unexpired portion of a term with less than 2 years remaining, such service shall not count against the 2-term limit.

H. Members of the CPRB may be removed by a majority vote of the City Council.

## ARTICLE II

### DUTIES AND TRAINING

Section 2.1 Duties. The duties of the Community Police Review Board are:

- A. Conduct monthly public meetings to promote community engagement and to afford the public regular opportunities to provide feedback and receive updates.
- B. Meeting materials, including agendas, minutes, meeting recordings, will be available to the public online.
- C. Review the independent auditor's annual report and analysis of completed administrative investigations; department use of force incidents; and critical incidents such as officer involved shootings, in-custody deaths and other events resulting in a Major Incident Review.
- D. Review the Modesto Police Department's (MPD) response to the independent auditor's report recommendations.
- E. Prepare and submit an annual report to the City Manager and City Council outlining the CPRB's activities and any recommendations related to any and all of the CPRB's review of information including but not limited to officer-involved shootings, use of force and complaints.
- F. Receive complaints from members of the public and directly refer those complaints to the City Manager for investigation by MPD.
- G. Receive timely notification on major incidents; the Chair or designee is authorized to visit the location of certain critical incidents which result in the involvement of MPD's Major Incident Response Team (MIRT) (e.g., officer-involved shooting).
- H. Receive access to relevant information to enable the CPRB to carry out its duties and responsibilities, as allowable by law.
- I. Participate in community meetings hosted by MPD following major incidents and be provided the opportunity to explain the role of the CPRB, as necessary.
- J. Conduct regular community engagement and outreach, with each member required to participate in events which raise awareness of the CPRB, and those focused on youth and improving police/community relationships.

- K. Participate in training provided by MPD and other sources regarding police practices, operations and functions. This training is to be presented whenever most practicable and beneficial in promoting the level of understanding and subject matter knowledge of the CPRB. This may include CPRB meetings and special training sessions.
- L. All members shall comply with all state and federal laws requiring the confidentiality of law enforcement records, information, and confidential personnel records, including any briefs prepared by the independent auditor. Members will be required to sign and abide by a confidentiality/non-disclosure agreement.

Section 2.2 Training. The required training of CPRB members include but are not limited to the following:

- A. Adhere to the National Association for Civilian Oversight of Law Enforcement (NACOLE) Code of Ethics.
- B. Comply with all applicable state and federal laws regarding confidentiality.
- C. Participate in an initial 20-40 hour training program provided by the MPD and other sources regarding police practices, operations and functions. Annually thereafter, participate in 30 or more hours of training, including but not limited to: participation in a minimum of two ride-a-longs every year with a Modesto Police Department officer, and training on police practices, operations and functions.
- D. Complete ethics training; AB 1234 requires training must be completed within one year from the date of service and at least once every two years thereafter.

## **ARTICLE III**

### **MEETINGS AND ATTENDANCE**

#### Sections 3.1 Regular Meetings

It shall be the responsibility of each Member to know the dates and times of all CPRB meetings. If a Member knows he or she will not be able to attend a regularly scheduled meeting, it shall be his or her responsibility to notify the staff appointed CPRB Secretary at least forty-eight (48) hours before the meeting, in order for the absence to be recorded as an excused absence.

- A. Meetings will be held on the third, Thursday of each month at 5:00 PM.
- B. The minutes of each meeting will list those Members in attendance, those who are

excused, and those who are unexcused.

- C. Regular attendance at all meetings of the CPRB is required of all members to enable the CPRB to discharge its duties. If a member is absent from three (3) meetings of the CPRB consecutively, without securing the permission of the CPRB, expressed in its official minutes, the CPRB may recommend the City Council request the resignation from the CPRB of any such member under Section 1.4 (H). The Secretary shall report to the CPRB and City Council when a CPRB member has accrued 4 (four) absences during the calendar year (January – December) for consideration of the CPRB.

### Section 3.2 Special Meetings

A special meeting may be called at any time by the Chair of the CPRB or upon the written request of three (3) members of the CPRB. Whenever a special meeting shall be called, written notice of such meeting shall be made in accordance with Section 3.6 hereof.

### Section 3.3 Place of Meetings

Meetings shall be held at the location designated in the agenda for the meeting.

### Section 3.4 Meetings to be Public

All meetings of the CPRB shall be open to the public.

### Section 3.5 Agenda

In order to facilitate the orderly conduct of the business of the CPRB:

- A. The secretary shall arrange a list of the matters to be considered by the CPRB at its next meeting in accordance with the order of business. The agenda and all other reports and other supplemental material shall be delivered (electronic, postal, or other means as needed) to each member of the CPRB prior to the CPRB meeting at which they are to be considered as far as possible in advance of the meeting as time will permit. In accordance with amendments to the Ralph M. Brown Act, the agenda will be posted in a place freely accessible to the public at least 72 hours prior to the meeting. Copies will also be mailed to each person or organization requesting notice in writing, each local newspaper of general circulation, and radio or television stations requesting notice in writing.
- B. Any interested person shall have the opportunity to make public comment on each agenda item and under the Oral Communications item. Public comment shall be limited to 3 minutes per person, except that the Chair may shorten this amount if necessary to accommodate a large number of speakers. Members of the public may not yield their time to other speakers.

- C. With the approval of a majority of the members of the CPRB present at the meeting, matters may be taken up out of order.
- D. The agenda shall specify the time and place of the meeting and a brief description of each item of business to be transacted.
- E. The agenda shall be posted at Tenth Street Place, 1010 10<sup>th</sup> Street.
- F. Notices of all meetings, including agendas, shall be given to all Members of the CPRB, to the City Clerk, to the City Manager, and to the public and all others as provided by law. All such notices shall be at least seventy-two (72) hours prior to the time of such meeting.

### Section 3.6 Order of Proceedings

The order of proceedings of all meetings shall be as follows, subject to majority vote of the Members present:

- A. Call to Order
- B. Roll Call
- C. Declaration of Conflict of Interest
- D. Public Comment Period
- E. Oral Communications
  - a. CPRB Members
  - b. Staff
- F. Unfinished Business
- G. New Business
- H. Written Communications
- I. Adjournment

### Section 3.7 Reading the Minutes

Unless the reading of the minutes of the CPRB meeting is requested by a majority of the members of the CPRB present, such minutes may be approved without reading if the secretary has previously furnished each member of the CPRB with a copy thereof.

### Section 3.8 Method of Action

All decisions of the CPRB shall be by motion. Upon the request of any member, roll call vote shall be taken and recorded on any vote. Whenever a roll call vote of the CPRB is in order, the names of the members shall be called in alphabetical order except that the name of the presiding officer shall be called last. The affirmative or negative vote of a majority of the entire membership of the CPRB shall be necessary for it to take action.

## **ARTICLE IV**

### **QUORUM**

#### Section 4.1 Quorum

A quorum is necessary for the CPRB to transact any business. A quorum shall be defined as a simple majority of active CPRB Members, which is one-half of the active members plus one.

## **ARTICLE V**

### **OFFICERS, SECRETARY AND STAFF LIAISON DUTIES**

#### Section 5.1 Chair and Vice Chair

Officers shall consist of Chair and Vice-Chair elected by a simple majority vote of Members of the CPRB. All officers shall exercise all privileges of membership, including the making of motions, seconding, and debate.

- A. Chairperson - The Chair shall preside at all meetings, shall appoint all ad hoc committees, and shall ensure that the bylaws, rules, and regulations as adopted by the CPRB are properly enforced. The chairperson is responsible to execute all documents on behalf of the CPRB and perform any duties requested by the CPRB. The CPRB chairperson will also be responsible for responding to the scene of officer involved shootings and/or critical incidents and may assign any CPRB member to respond to a critical incident on a case-by-case basis, in lieu of the Chairperson's absence. Priority and preference shall be given to the Vice Chairperson. No person shall serve more than two consecutive years as Chairperson.
- B. Vice Chairperson - The Vice-Chair shall assist the Chair in his/her duties and in the absence of the Chair shall perform all duties usually performed by the Chair.
- C. Secretary - The City shall appoint a staff representative to serve as the CPRB's Secretary. The Secretary shall keep a written record of all business transacted by the CPRB, notify CPRB members of meetings, keep official records of the CPRB, and perform such other duties as the CPRB may require.
- D. Staff Liaison - The City shall appoint a staff representative to serve as the CPRB's Liaison to provide support and guidance to the CPRB so that they can have effective meetings, comply with regulations and work within the scope of the CPRB's mission.

### Section 5.2 Election of Officers

The Chair and Vice Chair of the CPRB shall be elected annually at the regular meeting in January.

### Section 5.3 Interim Vacancies

If the Chair of the CPRB vacates that office prior to the end of his/her term, an interim Chair shall be elected by the CPRB for the remainder of the calendar year.

If the Vice Chair of the CPRB vacates that office prior to the end of his/her term, the Chair may appoint an interim Vice Chair for the remainder of the calendar year.

During the absence of both the Chairperson and the Vice Chairperson, the CPRB should select a temporary chairperson to conduct the meeting.

## **ARTICLE VI**

### **PROCEDURES AND POWERS**

#### Section 6.1 Authority

The provisions of the Charter, Municipal Code, and Personnel Rules of the City of Modesto, and these Rules of Procedure pertaining to procedures, and powers of the CPRB shall prevail in the order stated.

#### Section 6.2 Amendment of Rules of Procedure

These Rules of Procedure may be amended from time to time by the City Council.

## **ARTICLE VII**

### **PARLIAMENTARY PROCEDURE**

#### Section 7.1 Roberts Rules of Order

Except as otherwise provided in these Rules of Procedure, Roberts Rules of Order shall be the guide for the parliamentary procedures for conduct of CPRB meetings.

## **ARTICLE VIII**

### **AD HOC COMMITTEES**

#### Section 8.1 Special Committees

There shall be such special ad hoc committees as the CPRB may establish from time to time. The members of ad hoc committees shall be appointed by the Chair of the CPRB and shall serve for terms established by the CPRB.

#### Section 8.2 Ex Officio Committee Member

The Chair of the CPRB shall serve as an ex officio member of all CPRB ad-hoc committees.

## **ARTICLE IX**

### **CITY MANAGER AUTHORITY**

#### Section 9.1 Administrative Support

- A. The City Manager shall provide appropriate administrative support to staff the CPRB public meetings.
- B. The City Manager shall provide staff to prepare and keep records of CPRB meetings.

#### Section 9.2 CPRB Recommendations

- A. The City Manager shall receive and evaluate all recommendations issued by the CPRB, to include determining what next steps if any, will be taken relative to those recommendations. As appropriate, the City Manager will address the recommendations with the Chief of Police, and as appropriate, with the City Council.
- B. The City Manager shall be the ultimate arbiter of issues that may arise between the CPRB and the independent auditor regarding policy recommendations, roles, and scope of authority.

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2022-499**

**RESOLUTION APPROVING THE PROPOSED SCOPE OF WORK FOR  
INDEPENDENT POLICE AUDITOR SERVICES**

WHEREAS, the City of Modesto is seeking to contract the services of an Independent Police Auditor (IPA), in conjunction with the establishment of a Community Police Review Board (CPRB); and

WHEREAS, the contracting of IPA services is a dual component of a hybrid police accountability model, and the culmination of the efforts of the Forward Together work group created on June 8, 2021 by Council Resolution No. 2021-216; and

WHEREAS, for over a year, the work group held a series of public workshops and ad hoc meetings focused on the issue of improving police-community relations in the City of Modesto; and

WHEREAS, based on the Forward Together work group's recommendations, staff identified the IPA and CPRB as foundational accountability components and the appropriate initial elements to implement; and

WHEREAS, a result of input received at the September 30, 2022 Council Workshop focused on police accountability models, staff has developed the proposed scope of work (SOW) for the IPA; and

WHEREAS, in general, the role of the IPA will be to offer an independent assessment of the police practices, procedures, and responses to critical incidents, uses of force, and misconduct investigations; and

WHEREAS, the IPA will audit and review department internal investigations and citizen complaints to help ensure a thorough, unbiased, and impartial investigative fact-finding process and consistent and appropriate conclusions.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the proposed Scope of Work to retain services for and Independent Police Auditor through a Request for Proposal process which is 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 13th day of December, 2022, by Councilmember Williams, who moved its adoption, which motion being duly seconded by Councilmember Bavaro, was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmembers:	Alvarez, Bavaro, Escutia-Braaton, Ricci, Williams, Wright, Mayor Zwahlen
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

ATTEST:   
DIANE NAYARES-PEREZ, CMC,  
City Clerk

(SEAL)

APPROVED AS TO FORM:

BY:   
JOSE M. SANCHEZ, City Attorney

**Request for Proposal**  
**Independent Police Auditing Services**

The City of Modesto is soliciting a proposal from firms to retain services for Independent Police Auditing Services. It is the City's intent to select a firm for a three-year contract with two optional years of extension for a potential five-year agreement for Independent Police Auditing Services.

The following scope of work is intended to cover the range of tasks the Independent Police Auditor (IPA) may address over the course of the contract with the understanding that the amount of time spent on any one task may vary over time. For the scope of this project, the following services would be included:

**1. Role of IPA**

The role of the IPA will be to offer an independent assessment of the police practices, procedures, and responses to critical incidents, uses of force, and misconduct investigations. The IPA will issue periodic reports that describe its appraisal of the Modesto Police Department's processes, practices and procedures, and offer recommendations for systemic improvements.

**2. Internal Administrative Investigations and Citizen Complaints:**

The IPA will audit and review department internal investigations and citizen complaints to help ensure a thorough, unbiased, and impartial investigative fact-finding process and consistent and appropriate conclusions.

**3. Administrative, Citizen Complaint, and Use of Force Investigations:**

The IPA will review and report on an annual basis all investigations/cases in the following categories that have been closed:

- A. All uses of deadly force and in-custody deaths
- B. All bias-based policing complaints
- C. All administrative investigations in which the subject employee holds the rank of sergeant or higher
- D. A random selection of 1/3 of all administrative investigations;
- E. A random selection of 1/3 of all citizens complaints
- F. A random selection of 1/4 of all use of force reviews and any other investigations at the discretion of the City
- G. Prepare any additional critical incident reviews or tasks requested in writing by the City Attorney.

#### **4. Officer Involved Shootings and In-Custody Deaths:**

- A. The IPA will have the ability to respond to the scene of all officer involved shootings involving a person and all in-custody deaths in real time to monitor and advise the City in the investigation.
- B. The IPA will attend Major Incident Review Team (MIRT) meetings and provide timely feedback after the initial briefing regarding any observations, recommendations, and requests for further investigation.
- C. The IPA will review every MPD investigation of any officer involved shooting regarding a person (regardless of whether a person was hit by gunfire) and all in-custody deaths, to determine if the investigation was complete, thorough, objective, and fair.

#### **5. Access to Information:**

- A. The police department will ensure the IPA has access to any relevant police department files to ensure the IPA can complete a thorough review of its contracted responsibilities.

#### **6. Community Police Review Board:**

The IPA will serve as a police practices adviser to the CPRB. Duties will include:

- A. Work closely with the CPRB to offer an independent perspective, sharing its insights into specific matters that come to the Board's attention.
- B. Work closely with the CPRB to receive community feedback and complaints regarding the Modesto Police Department (MPD)
- C. Provide training to the Board upon request and assist the Board with the preparation of the Board's annual report including their workplan.
- D. Work closely with the CPRB to review and develop recommendations as to the policies, procedures, and practices of the MPD.

#### **7. Reporting:**

- A. The IPA will prepare a written public report that will include policy recommendations, along with statistics on the number of citizen complaints and Internal Affairs investigations, the type of allegations, and the conclusion of the investigations (by Internal Affairs), to the extent allowed by applicable law.
  - a. Critical incidents that are the subject of pending or potential litigation will not be included in IPA reports until after the litigation has been resolved.

B. The IPA shall give a presentation to the Community Police Review Board (CPRB) and/or the City Council, which discusses IPA's review evaluations of internal investigations and citizen complaints that occurred during that year and suggest improvements to policies, procedures or trainings.

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2022-500**

**RESOLUTION ACCEPTING THE CAPITAL FACILITIES FEES ANNUAL  
REPORT FOR FISCAL YEAR 2021-22 AND MAKING FINDINGS  
RELATED TO EACH OF THE FEE CATEGORIES**

WHEREAS, the City of Modesto imposes fees to mitigate the impacts of development, pursuant to Government Code section 66000 *et seq.*, and

WHEREAS, California Government Code sections 66001 and 66006 require cities to annually make certain fee-related information available to the public and findings relating to the necessity of collecting fees for new development, and

WHEREAS, the City, in accordance with Government Code section 66006(a) and Section 8-1.904 of the Modesto Municipal Code, established Capital Facilities Fees (CFF) for the purpose collecting fees to fund the construction of public improvements that will be needed as a result of new development, and

WHEREAS, on March 22, 2011, by Resolution No. 2011-105, Council established the nexus for fees imposed by each land use, said nexus and fees were later amended by Resolution No. 2020-464 on September 22, 2020, and

WHEREAS, the following fees were established by Resolution No. 2020-407:

- The Streets CFF fund was established to accrue funds for arterial roadways, intersections, expressways, freeway interchanges and associated landscaping, and
- The Public Transportation CFF fund was established to accrue funds for the expansion of the City's transit system including additional buses and their associated facilities, and

- The Parks and Air Quality CFF Fund was established to accrue funds to assist in the reduction of automobile travel, specifically for the development of park and ride lots, Class I Bike Trails, pedestrian accesses as well as land and construction costs for neighborhood, community, and regional parks, sports facilities, and community buildings, and
- The Police CFF Fund was established to accrue funds for additional policing needs including an additional station, police cars and associated equipment, a northeast area precinct, a training facility, a computer aided dispatch system, and an expanded radio system, and
- The Fire CFF Fund was established to accrue funds for the construction of additional fire stations, fire vehicles, and a new training station, and
- The General Government CFF Fund was established to accrue funds for the debt service payments on City Hall, related parking facilities, the corporation yard and related facilities, City vehicles and the City's information technology expansion, and

WHEREAS, the Capital Facilities Fee Annual Report for Fiscal Year 2021-22 has been completed and is on file with the City Clerk and is **attached** as **Attachment 2**, and

WHEREAS, a public hearing notice was posted in the Modesto Bee on December 2, 2022, and

WHEREAS, a public hearing at the City Council in the Tenth Street Place Chambers located at 1010 Tenth Street, Modesto, California was set for December 13, 2022, to enable the public to have the opportunity to comment on the CFF collected.

NOW, THEREFORE, BE IT RESOLVED, by the Council of the City of Modesto that it hereby makes the following findings relating to each of the fee categories:

- 1) The Capital Facilities Fee program, set forth in City Council Resolution No. 2020-407, and incorporated herein by reference, continues to be a necessary program to fund future infrastructure needed for new development.
- 2) The Capital Facilities Fee Annual Report for Fiscal Year 2021-22 (**Attachment 2**) reports on the below information for each of the fee categories:
  - a. The amount of the fee. (Table 1)
  - b. The beginning and ending balance of the account or fund. (Table 2)
  - c. The amount of the fees collected and the interest earned. (Table 2)
  - d. An identification of each public improvement on which fees were expended and the amount of the expenditures on each improvement, including the total percentage of the cost of the public improvement that was funded with fees. (Table 10)
- 3) The CFF revenue anticipated for the full development of infrastructure improvements for new development has not been fully collected to complete the financing of incomplete improvements. It is presently anticipated that there will be no regular sources of funding to develop CFF infrastructure improvements apart from CFF collections.
- 4) The anticipated dates for the full collection of fees is unknown at this time as fees are based on development activity which is not controlled by the City.
- 5) The necessary funds for constructing and/or purchasing the following have not yet been accumulated and the approximate date is not yet known, but there is

still a need as outlined in Resolution No. 2020-407, and therefore fees should still be collected for the following purposes:

- Additional fire stations, fire vehicles, and a new training station, and
- An additional police station, police cars and associated equipment, a northeast area precinct, a training facility, a computer-aided dispatch system, and an expanded radio system, and
- Development of additional regional parks, community centers, neighborhood parks, and the expansion of McClure Country Place, and
- Debt service payments on City Hall, related parking facilities, the corporation yard and related facilities, City vehicles and the City's information technology expansion, and
- Reduction of automobile travel, specifically for the development of park and ride lots and Class I Bike Trails, and
- Arterial roadways, intersections, expressway, freeway interchanges and all of their associated landscaping, and
- Expansion of the transit system.

6) All reportable fees, collections and expenditures have been received, deposited, invested and expended in compliance with the relevant sections of the California Government Code and all other applicable laws for the Fiscal Year 2021-22.

7) No refunds and allocations of reportable fees, as required by California Government Code section 66001, are deemed payable at this time.

BE IT FURTHER RESOLVED by the Council of the City of Modesto that it hereby accepts the Fiscal Year 2021-22 Capital Facilities Fees Report as described in **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 13th day of December, 2022, by Councilmember Wright, who moved its adoption, which motion being duly seconded by Councilmember Escutia-Braaton, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Alvarez, Bavaro, Escutia-Braaton, Ricci, Williams, Wright, Mayor Zwahlen  
NOES: Councilmembers: None  
ABSENT: Councilmembers: None

ATTEST:   
DIANE NAYARES-PEREZ, CMC,  
City Clerk

(SEAL)

APPROVED AS TO FORM:

BY:   
JOSE M. SANCHEZ, City Attorney

# City of Modesto Capital Facilities Fees Annual Report Fiscal Year 2021-22

Prepared By:

Community & Economic Development  
Infrastructure Financing Program

December 2022



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## LEGAL REQUIREMENTS

### A. What Are Impact Fees?

California Government Code §66000 allows a local jurisdiction to establish an impact fee to mitigate the impacts of new development. These fees may be used for the purchase, construction, expansion, rehabilitation, or acquisition of public facilities, and must be consistent with the adopted fee program, which is updated every five years.

New development increases the demand for health and safety service provided by a city, affects the quality of the community's infrastructure, and increases the need for public facilities. Typically, impact fees are paid to a city at the time a building permit is issued and assist in paying for the cumulative impact of new development through infrastructure improvements and additions. Facilities partly funded by impact fees include police, fire and administrative buildings, park sites, bike trails, public landscape areas, community centers, transportation and transit facilities and roadway improvements. Impact fees cannot be used for maintenance of existing or future city facilities.

### B. Establishing An Impact Fee Program

The City of Modesto ("City") impact fee program, more commonly known as the Capital Facilities Fees Program ("CFF Program"), was established in 1987 and has been updated periodically to reflect the changes in land values, projects and costs. Impact fees imposed on new development must have the proper nexus to any project on which they are imposed. The CFF Program sets forth the relationship between contemplated future developments, facilities needed to serve future development and the estimated cost of those improvements based on the current General Plan for build-out. Estimated project costs and the summary of fee apportionment for each CFF Program fee category are identified in the 2003, 2011, 2019 and 2020 CFF Program updates.

### C. Adoption of a Capital Improvement Program

California Government Code §66002 requires local agencies that have implemented an impact fee program to adopt a Capital Improvement Program (CIP) indicating the approximate location, size, and time of projects, plus an estimate for the costs of all facilities or improvements to be financed by the impact fees. At a minimum, a formal CIP is recommended as a five-year plan. The City annually produces a five-year CIP which assists in maintaining and updating the City's General Plan.

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The City's CIP connects annual capital expenditures to a long-range plan for public improvements. The City's CIP also assists in maximizing the funds available, connecting the plan for public improvements to the City's capacity for funding, and projecting expenditures over a period of years. This type of fiscal management is particularly important during periods where budgetary demands exceed financial resources. The City's CIP is financed in part by the impact fees collected through the CFF Program.

**D. Reporting**

Annual reporting of a local agency's impact fee program is required by Government Code §66006. The impact fees collected must be segregated from general and other funds containing fees collected for other improvements. Interest on each impact fee fund or account must be credited to that fund or account and be used only for the purpose for which the impact fee was collected.

California Government Code §66006(b) requires that a local agency make the following information available to the public for each separate impact fee fund on an annual basis and that the local agency review that information at a public meeting. The law also requires the annual report include the following information for the prior fiscal year and be made available within 180 days after the last day of each fiscal year:

- Describe the type of impact fee in the account or fund.
- Identify the amount of the impact fee.
- Provide the beginning and ending balance of the account or fund.
- Provide the amount of impact fees collected and interest earned.
- Identify each public improvement on which impact fees were expended and the amount of the expenditures on each improvement, including the total percentage of the cost of the public improvement that was funded with the impact fee.
- Identify an approximate date by which the construction of the public improvement will commence, if the local agency determines that sufficient funds have been collected to complete financing on an incomplete public improvement and the public improvement remains incomplete.
- Describe each interfund transfer or loan made from the account or fund, including the public improvement on which the transferred or loaned impact fees will be expended, and, in the case of an interfund loan, the date on which the loan will be repaid and the rate of interest that the account or fund will receive on the loan.
- Provide the amount of refunds made due to sufficient funds being collected to complete financing on incomplete public improvements, and the amount of reallocation of impact funds made to administrative costs of refunding unexpended revenues exceeding the amount to be refunded.

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If an agency no longer needs the funds for the purposes collected or fails to make the required findings or perform certain administrative tasks prescribed, the agency may be required to refund, on a prorated basis to owners of the properties upon which the impact fees for the improvement were imposed, the monies collected for that project and any interest earned on those funds.

California Government Code §66001(d) also requires that the local agency make all of the following findings every fifth year with respect to that portion of the account remaining unexpended, whether committed or uncommitted:

- Identify the purpose to which the impact fee is to be allocated.
- Demonstrate a reasonable relationship between the impact fee and the purpose for which is it charged.
- Identify all sources and amounts of funding anticipated to complete financing of incomplete improvements.
- Designate the approximate dates on which the funding is expected to be deposited into the appropriate account or fund.
- In any action imposing a fee as a condition of approval of a development project by a local agency, the local agency shall determine how there is a reasonable relationship between the amount of the impact fee and the cost of the public facility or portion of the public facility attributable to the development on which the impact fee is imposed.

## **DESCRIPTION OF CAPITAL FACILITIES FEES**

The CFF Program mitigates the impacts associated with new development on certain public facilities. The CFF Program is used to finance the acquisition, construction, and improvement of public facilities as a result of new development. The City has the following CFF Program fee categories:

### **Streets Capital Facilities Fee – Fund 3410**

This fee is collected for roadway improvements such as expressways, interchanges, arterial and collector roads, turn lanes, intersections and traffic signals.

### **Public Transportation Capital Facilities Fee – Fund 3420**

This fee is collected for new buses, bus shelters, bus stops, the bus maintenance facility, and the northeast transfer station.

### **Air Quality and Parks Facilities Fee – Fund 3432**

This fee is collected for facilities that reduce automobile travel by facilitating alternative modes of travel such as the Amtrak station parking lot, park and ride lots, vanpooling,

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carpooling, Class I bike trails, bike storage, turn lanes, footpaths, and pedestrian accesses as well as land and construction costs for neighborhood, community, and regional parks, sports facilities, and community buildings.

**Police Capital Facilities Fee – Fund 3440**

This fee is collected for the Police Tactical Training Center, police vehicles, parking facilities, communication systems, special equipment, and the future Northeast Area Precinct (to be shared with Fire).

**Fire Capital Facilities Fee – Fund 3450**

This fee is collected for fire facility expansions, fire vehicles, special equipment, and the future Northeast Area Precinct (to be shared with Police).

**City Hall and Other Government Facilities Capital Facilities Fee – Fund 3470**

This fee is collected for debt service payments on City Hall, related parking facilities, the corporation yard and related facilities, City vehicles, and the City's information technology expansion.

**Administration Capital Facilities Fee – Fund 3480**

This fee is collected for the administration of the CFF Program. This includes preparation of an Annual CFF Program Report, preparation of a Five-Year CFF Report, day-to-day management of the CFF Program including preparation of annual CIP budgets, CFF Program annual inflationary updates, land value analyses and updates and CFF Program Proformas.

## **FY 2021-2022 CURRENT FEE SCHEDULES**

The current CFF Program allows for an annual inflationary adjustment equal to the increase in the annual change in the San Francisco Bay Area Engineering News Record (ENR) Construction Cost Index (CCI) through the month of December of the preceding year. Based on the ENR CCI, the CFF fee schedule was adjusted by 2.1% from the previous fiscal year. Table 1 reflects the breakdown of the CFFs for the FY 2021-22 by the following fee dwelling area: City Limits, Sphere of Influence and Downtown Economic Incentive.

## COMBINING STATEMENT OF REVENUES, EXPENDITURES AND CHANGES IN FUND BALANCES<sup>1</sup>

The Combining Statement of Revenues, Expenditures and Changes in Fund Balances provided in Table 2 outlines the beginning and ending balance of each fund for Fiscal Year 2021-22. Expenditures are identified by general categories. All revenue, unless collected under the deferral program, is collected at the time a building permit is issued. Since the CFF Program is a “pay-as-you-go” program, the City must accrue enough revenue prior to commencing construction of a project, resulting in an “aging” of fund balances. The aging or accumulation occurs until enough revenue has been collected to construct a project.

## FIVE YEAR REVENUE AND EXPENSE HISTORY

As previously discussed, most revenue is collected when a building permit is issued for new development. Tables 3 and 4 provide a five-year snapshot of the CFF Program revenues and expenditures, respectively. Table 5 offers a combined picture of revenues, expenses and fund balance levels over the past five years.

## DEFERRED CAPITAL FACILITIES FEES

### Multi-Family, Commercial and Industrial

CFF Deferral Programs for Multi-Family, Commercial, and Industrial developments have been in place since 1991. Deferrals assist in off-setting the cost of new development by allowing applicants to pay a portion of the CFF due at the time of building permit issuance and the balance, plus interest, over a predetermined period of time. Table 6 details the five (5) active deferrals in Fiscal Year 2021-22.

### Single-Family Residential

The Single-Family Deferral Program allows applicants to pay a portion of their fees due at the time of building permit issuance and defer payment of the CFF, water connection and wastewater capacity fees until final inspection. There were no Single-Family Residential Deferrals in Fiscal Year 2021-22.

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<sup>1</sup> Financial data is current as of November 1, 2022.

## **EXEMPTIONS**

The City of Modesto encourages the construction of Very-Low and Low Income Housing development projects within the City. CFF exemptions can be provided to the Housing Authority of Stanislaus or to Community Housing Development Organizations (CHDO) for the development of low and very-low income households (under 60% of the area median income). As Table 7a indicates, there was one (1) exemption processed in Fiscal Year 2021-22:

- On March 8, 2022, the City Council approved a CFF exemption for the Stanislaus Equity Partners Community Development Corporation (STEP CDC) for its project located at 112 James Street. The project provides seven affordable units for Behavioral Health & Recovery Services (BHRS) clients who are at risk or experiencing homelessness. The property consists of seven units; including one one-bedroom, four two-bedroom and two three-bedroom.

## **REFUNDS**

There can be instances when CFFs collected may be refunded if a building permit expires, is revoked, voluntarily surrendered or voided, and no construction or improvement of land has commenced. In addition, CFF paid for placement of Trailers may be refunded if requested in writing with six years of payment, minus the administration component. There were no CFF refunds made in Fiscal Year 2021-22, as shown on Table 7b.

## **CREDITS**

CFF credits are granted when previously existing building(s) are removed and new building(s) are constructed. These credits may off-set up to but not more than 100% of the CFF due for the new development. Moreover, additional square footage added shall be subject to payment of applicable CFF at building permit issuance.

In Fiscal Year 2021-22, there were a total of sixteen (16) credits, and in three (3) cases credits for previously existing buildings had to pay the difference between the CFF due and CFF credit:

- *1205 E Whitmore Avenue*  
Tenant improvement to an existing warehouse with additional square footage for an interior office space.
- *3029 E. Orangeburg Avenue*  
The property originally consisted of a single-family residence, which was being rebuilt into a duplex. The original unit was credited for the single-family residence, with CFF

due at the multi-family residence rate for the duplex.

- *900/924 Crowslanding Road*  
Two (2) previously demolished buildings were rebuilt with a greater building footprint (square footage). Permit was credited based on the original fees paid, and charged based on new building type and square footage.

Table 8 details the credits provided in Fiscal Year 2021-22.

## **TRANSFERS**

A total of twenty-seven (27) inter-fund transfers occurred in Fiscal Year 2021-22. During Fiscal Year 2021-22, there were five (5) deferral payments that were incorrectly deposited into the General Fund and Wastewater Fund. The City's Finance Department corrected the deposits and are reflected in the table as *Transfer In from Fund 0100* and *Transfer In from Fund 4211*.

In Fiscal Year 2021-22, there were two (2) incorrect transfers: *Transfer Out to Fund 5230* from Fund 3410 and Fund 3430. These transfers will be corrected in FY 2022-23.

Table 9 offers details of each transfer.

## **CAPITAL IMPROVEMENT PROJECTS<sup>2</sup>**

Information on projects funded by the CFF Program can be found in Table 10. The information in the table includes a listing of current projects, estimated construction start and end dates, estimated project costs, percentage of project funded by the CFF Program and general accounting information.

## **EXEMPTIONS FOR ACCESSORY DWELLING UNITS (ADUs)**

California law (Government Code §65852.2) exempts an Accessory Dwelling Unit (ADU) less than 750 sq. ft from CFF and requires that fees for an ADU over 750 sq. ft. be charged proportionately in relation to the square footage of the primary dwelling unit. Table 11 lists all ADUs for FY 2021-22. There were a total of thirty five ADU's issued permits with eleven units in which fees were proportionately paid.

In Fiscal Year 2021-22, there were eight (8) ADUs which were due CFF. Four (4) of these permits were charged proportionately based on ADU size in relation to the primary unit: 105 Lita Court, 316 Burney Street, 1101 E. Rumble Road, and 3017 Conant Avenue.

There are occasions in which an ADU has a higher proportionate rate. Per the City's CFF Policies and Procedures, in no event shall the impact fee for the ADU exceed the CFF rate for Multi-

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<sup>2</sup> Financial data is current as of November 1, 2022.

Family residential. In FY 2021-22 we had four (4) charged at this rate: 1020 Empire Ave, 1024 Hawthorne Avenue, 1510 Vernon Avenue, and 1560 Church Lane.

### **REDUCTION OF CAPITAL FACILITIES FEES**

An applicant may request a reduction in the CFF if it is determined that the project will generate a lower number of trips than the trip generation rates that were used as the basis for the current CFF. Any such fee reduction must be based on a trip generation study, using accepted methodology, as determined by the City. The fee reduction shall be no greater than a proportionate reduction in trips demonstrated in the trip generation study. Any such reduction shall be approved by the City Manager. There was one (1) CFF reduction granted Fiscal Year 2021-22.

**CITY OF MODESTO  
CAPITAL FACILITIES FEES ANNUAL REPORT  
FISCAL YEAR 2021-22**

**Table 1: Fee Schedules Effective July 1, 2021 through June 30, 2022**

<b>FY 2021-2022 CFF PROGRAM - Development within City Limits</b>									
<b>Fee Category</b>	<b>Unit Measure Per</b>	<b>Streets</b>	<b>Transit</b>	<b>Parks and Air Quality</b>	<b>Police</b>	<b>Fire</b>	<b>General Gov't.</b>	<b>Admin</b>	<b>Total</b>
Single-Family Residential	Dwelling Unit	\$ 6,965	\$ 101	\$ 6,379	\$ 647	\$ 403	\$ 534	\$ 302	\$ 15,331
Multi-Family Residential	Dwelling Unit	\$ 4,824	\$ 70	\$ 4,389	\$ 390	\$ 186	\$ 327	\$ 164	\$ 10,350
Senior Housing	Dwelling Unit	\$ 4,203	\$ 38	\$ 4,281	\$ 380	\$ 182	\$ 321	\$ 115	\$ 9,520
Hotel/Motel	Room	\$ 3,622	\$ 63	\$ -	\$ 147	\$ 70	\$ 124	\$ 92	\$ 4,118
Retail <50,000 SF	1,000 SF	\$ 10,472	\$ 208	\$ -	\$ 175	\$ 85	\$ 148	\$ 283	\$ 11,371
Retail 50,000-100,000 SF	1,000 SF	\$ 8,693	\$ 171	\$ -	\$ 176	\$ 84	\$ 147	\$ 235	\$ 9,506
Retail 100,000-300,000 SF	1,000 SF	\$ 7,337	\$ 145	\$ -	\$ 176	\$ 85	\$ 148	\$ 199	\$ 8,090
Retail >300,000 SF	1,000 SF	\$ 6,844	\$ 133	\$ -	\$ 176	\$ 84	\$ 148	\$ 187	\$ 7,572
Medical Office	1,000 SF	\$ 13,224	\$ 265	\$ -	\$ 294	\$ 141	\$ 246	\$ 365	\$ 14,535
General Office	1,000 SF	\$ 6,400	\$ 113	\$ -	\$ 293	\$ 141	\$ 246	\$ 166	\$ 7,359
Hospital	1,000 SF	\$ 9,275	\$ 164	\$ -	\$ 293	\$ 141	\$ 246	\$ 231	\$ 10,350
Daycare	1,000 SF	\$ 5,121	\$ 90	\$ -	\$ 293	\$ 141	\$ 246	\$ 134	\$ 6,025
Church	1,000 SF	\$ 1,092	\$ 19	\$ -	\$ 297	\$ 142	\$ 250	\$ 38	\$ 1,838
Nursing Home	1,000 SF	\$ 1,598	\$ 28	\$ -	\$ 296	\$ 142	\$ 249	\$ 49	\$ 2,362
Industrial (Manufacturing)	1,000 SF	\$ 2,481	\$ 43	\$ -	\$ 126	\$ 60	\$ 105	\$ 64	\$ 2,879
Industrial (Warehousing)	1,000 SF	\$ 1,739	\$ 31	\$ -	\$ 127	\$ 60	\$ 105	\$ 47	\$ 2,109

**CITY OF MODESTO  
CAPITAL FACILITIES FEES ANNUAL REPORT  
FISCAL YEAR 2021-22**

**Table 1, cont'd: Fee Schedules Effective July 1, 2021 through June 30, 2022**

<b>FY 2021-2022 CFF PROGRAM - Development within City's Sphere of Influence</b>									
<b>Fee Category</b>	<b>Unit Measure Per</b>	<b>Streets</b>	<b>Transit</b>	<b>Parks and Air Quality</b>	<b>Police</b>	<b>Fire</b>	<b>General Gov't.</b>	<b>Admin</b>	<b>Total</b>
Single-Family Residential	Dwelling Unit	\$ 7,573	\$ 81	\$ 1,535	\$ -	\$ -	\$ -	\$ 195	\$ 9,384
Multi-Family Residential	Dwelling Unit	\$ 5,450	\$ 58	\$ 973	\$ -	\$ -	\$ -	\$ 133	\$ 6,614
Senior Housing	Dwelling Unit	\$ 3,188	\$ 35	\$ 1,065	\$ -	\$ -	\$ -	\$ 106	\$ 4,394
Hotel/Motel	Room	\$ 3,818	\$ 40	\$ -	\$ -	\$ -	\$ -	\$ 57	\$ 3,915
Retail <50,000 SF	1,000 SF	\$ 10,893	\$ 114	\$ -	\$ -	\$ -	\$ -	\$ 159	\$ 11,166
Retail 50,000-100,000 SF	1,000 SF	\$ 9,069	\$ 95	\$ -	\$ -	\$ -	\$ -	\$ 133	\$ 9,297
Retail 100,000-300,000 SF	1,000 SF	\$ 7,688	\$ 82	\$ -	\$ -	\$ -	\$ -	\$ 112	\$ 7,882
Retail >300,000 SF	1,000 SF	\$ 7,182	\$ 77	\$ -	\$ -	\$ -	\$ -	\$ 105	\$ 7,364
Medical Office	1,000 SF	\$ 13,848	\$ 148	\$ -	\$ -	\$ -	\$ -	\$ 203	\$ 14,199
General Office	1,000 SF	\$ 6,779	\$ 70	\$ -	\$ -	\$ -	\$ -	\$ 104	\$ 6,953
Hospital	1,000 SF	\$ 9,700	\$ 102	\$ -	\$ -	\$ -	\$ -	\$ 146	\$ 9,948
Daycare	1,000 SF	\$ 5,469	\$ 58	\$ -	\$ -	\$ -	\$ -	\$ 84	\$ 5,611
Church	1,000 SF	\$ 1,309	\$ 13	\$ -	\$ -	\$ -	\$ -	\$ 29	\$ 1,351
Nursing Home	1,000 SF	\$ 1,846	\$ 19	\$ -	\$ -	\$ -	\$ -	\$ 35	\$ 1,900
Industrial (Manufacturing)	1,000 SF	\$ 2,638	\$ 28	\$ -	\$ -	\$ -	\$ -	\$ 40	\$ 2,706
Industrial (Warehousing)	1,000 SF	\$ 1,883	\$ 20	\$ -	\$ -	\$ -	\$ -	\$ 30	\$ 1,933

**CITY OF MODESTO  
CAPITAL FACILITIES FEES ANNUAL REPORT  
FISCAL YEAR 2021-22**

**Table 1, cont'd: Fee Schedules Effective July 1, 2021 through June 30, 2022**

<b>FY 2021-2022 CFF PROGRAM - Development within the Downtown Economic Incentives Program</b>									
<b>Fee Category</b>	<b>Unit Measure Per</b>	<b>Streets</b>	<b>Transit</b>	<b>Parks and Air Quality</b>	<b>Police</b>	<b>Fire</b>	<b>General Gov't.</b>	<b>Admin</b>	<b>Total</b>
Single-Family Residential	Dwelling Unit	\$ -	\$ 101	\$ 6,379	\$ 648	\$ 403	\$ 533	\$ 302	\$ 8,366
Multi-Family Residential	Dwelling Unit	\$ -	\$ 70	\$ 4,389	\$ 390	\$ 186	\$ 327	\$ 164	\$ 5,526
Senior Housing	Dwelling Unit	\$ -	\$ 38	\$ 4,280	\$ 380	\$ 182	\$ 321	\$ 115	\$ 5,316
Hotel/Motel	Room	\$ -	\$ 63	\$ -	\$ 147	\$ 70	\$ 124	\$ 85	\$ 496
Retail <50,000 SF	1,000 SF	\$ -	\$ 208	\$ -	\$ 176	\$ 85	\$ 147	\$ 283	\$ 900
Retail 50,000-100,000 SF	1,000 SF	\$ -	\$ 172	\$ -	\$ 176	\$ 84	\$ 147	\$ 235	\$ 813
Retail 100,000-300,000 SF	1,000 SF	\$ -	\$ 145	\$ -	\$ 177	\$ 85	\$ 148	\$ 199	\$ 753
Retail >300,000 SF	1,000 SF	\$ -	\$ 133	\$ -	\$ 176	\$ 84	\$ 148	\$ 187	\$ 727
Medical Office	1,000 SF	\$ -	\$ 264	\$ -	\$ 293	\$ 141	\$ 245	\$ 365	\$ 1,308
General Office	1,000 SF	\$ -	\$ 113	\$ -	\$ 293	\$ 141	\$ 246	\$ 164	\$ 958
Hospital	1,000 SF	\$ -	\$ 163	\$ -	\$ 293	\$ 141	\$ 246	\$ 230	\$ 1,073
Daycare	1,000 SF	\$ -	\$ 90	\$ -	\$ 293	\$ 141	\$ 246	\$ 134	\$ 904
Church	1,000 SF	\$ -	\$ 19	\$ -	\$ 297	\$ 142	\$ 250	\$ 38	\$ 746
Nursing Home	1,000 SF	\$ -	\$ 28	\$ -	\$ 296	\$ 142	\$ 249	\$ 49	\$ 764
Industrial (Manufacturing)	1,000 SF	\$ -	\$ 43	\$ -	\$ 126	\$ 60	\$ 105	\$ 64	\$ 398
Industrial (Warehousing)	1,000 SF	\$ -	\$ 31	\$ -	\$ 127	\$ 60	\$ 105	\$ 47	\$ 370

**CITY OF MODESTO  
CAPITAL FACILITIES FEES ANNUAL REPORT  
FISCAL YEAR 2021-22**

**Table 2: Combining Statement of Revenues, Expenditures and Changes in Fund Balances Year Ended June 30, 2022<sup>3</sup>**

FY 2021-22	3410 Streets	3420 Public Transp.	3430 Air Quality	3432 Parks & Air Quality	3440 Police	3450 Fire	3460 Parks	3470 General Gov't	3480 Admin.	Total
<b>REVENUES:</b>										
Intergovernmental	\$ 948,142	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 948,142
Fees Collected	\$ 4,555,401	\$ 70,380	\$ 3,528	\$ 2,243,935	\$ 360,120	\$ 171,598	\$ 8,847	\$ 269,333	\$ 146,873	\$ 7,830,015
Interest and Rent	\$ 261,451	\$ 4,730	\$ 1,914	\$ 74,715	\$ 5,062	\$ 2,435	\$ 26,743	\$ 3,040	\$ 1,405	\$ 381,495
Net Change in Fair Value of Investments	\$ (1,001,685)	\$ (18,706)	\$ (4,717)	\$ (337,948)	\$ (20,994)	\$ (10,173)	\$ (69,139)	\$ (12,860)	\$ (5,382)	\$ (1,481,604)
Miscellaneous	\$ 12,790	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 12,790
<b>TOTAL REVENUES</b>	<b>\$ 4,776,099</b>	<b>\$ 56,404</b>	<b>\$ 725</b>	<b>\$ 1,980,702</b>	<b>\$ 344,188</b>	<b>\$ 163,860</b>	<b>\$ (33,549)</b>	<b>\$ 259,513</b>	<b>\$ 142,896</b>	<b>\$ 7,690,838</b>
<b>EXPENDITURES:</b>										
Current:										
General Gov't.										\$ -
Community Development	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 86,371	\$ 86,371
Highways and Streets	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
Public Works	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
Parks and Recreation	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
Public Safety	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
Capital Outlay:										
Community Development	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
Highways and Streets	\$ 3,914,103	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 3,914,103
Parks and Recreation	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 43,433	\$ -	\$ -	\$ 43,433
<b>TOTAL EXPENDITURES</b>	<b>\$ 3,914,103</b>	<b>\$ -</b>	<b>\$ -</b>	<b>\$ -</b>	<b>\$ -</b>	<b>\$ -</b>	<b>\$ 43,433</b>	<b>\$ -</b>	<b>\$ 86,371</b>	<b>\$ 4,043,907</b>
<b>EXCESS (DEFICIENCY) OF REVENUES OVER (UNDER) EXPENDITURES</b>	<b>\$ 861,996</b>	<b>\$ 56,404</b>	<b>\$ 725</b>	<b>\$ 1,980,702</b>	<b>\$ 344,188</b>	<b>\$ 163,860</b>	<b>\$ (76,982)</b>	<b>\$ 259,513</b>	<b>\$ 56,525</b>	<b>\$ 3,646,931</b>
<b>OTHER FINANCING SOURCES (USES)</b>										
Transfers In*	\$ (1,692,116)	\$ 3,338	\$ 6,457	\$ -	\$ 9,583	\$ 3,135	\$ 24,202	\$ 5,501	\$ 5,129	\$ (1,634,771)
Transfers Out*	\$ (2,936)	\$ -	\$ (1,305)	\$ -	\$ (215,000)	\$ (105,000)	\$ (49,495)	\$ (175,000)	\$ (1,305)	\$ (550,041)
Sale of Assets	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
<b>TOTAL OTHER FINANCING SOURCES</b>	<b>\$ (1,695,052)</b>	<b>\$ 3,338</b>	<b>\$ 5,152</b>	<b>\$ -</b>	<b>\$ (205,417)</b>	<b>\$ (101,865)</b>	<b>\$ (25,293)</b>	<b>\$ (169,499)</b>	<b>\$ 3,824</b>	<b>\$ (2,184,812)</b>
<b>EXCESS (DEFICIENCY) OF REVENUES &amp; OTHER USES</b>	<b>\$ (833,056)</b>	<b>\$ 59,742</b>	<b>\$ 5,877</b>	<b>\$ 1,980,702</b>	<b>\$ 138,771</b>	<b>\$ 148,320</b>	<b>\$ (102,275)</b>	<b>\$ 90,014</b>	<b>\$ 60,349</b>	<b>\$ 1,548,444</b>
<b>FUND BALANCES, July 1</b>	<b>\$ 28,881,198</b>	<b>\$ 392,359</b>	<b>\$ 470,444</b>	<b>\$ 512,266</b>	<b>\$ 332,276</b>	<b>\$ (665,473)</b>	<b>\$ 7,085,685</b>	<b>\$ 214,808</b>	<b>\$ 84,140</b>	<b>\$ 37,307,703</b>
<b>PRIOR PERIOD ADJUSTMENT</b>										\$ -
<b>FUND BALANCES, June 30</b>	<b>\$ 28,048,142</b>	<b>\$ 452,101</b>	<b>\$ 476,321</b>	<b>\$ 2,492,968</b>	<b>\$ 471,047</b>	<b>\$ (517,153)</b>	<b>\$ 6,983,410</b>	<b>\$ 304,822</b>	<b>\$ 144,489</b>	<b>\$ 38,856,147</b>

<sup>3</sup> Financial data is current as of November 1, 2022 – see Table 9 for Transfers.

**CITY OF MODESTO**  
**CAPITAL FACILITIES FEES ANNUAL REPORT**  
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**Table 3: Five Year Revenue History**

Fund	2017-2018	2018-2019	2019-2020	2020-2021	2021-2022	Five Year Total
<b>FUND 3410 – STREETS</b>						
Fees Collected	\$ 4,452,343	\$ 1,600,387	\$ 2,902,289	\$ 3,522,904	\$ 4,555,401	\$ 17,033,324
Grant Monies	\$ 6,485,930	\$ -	\$ 8,672,922	\$ (3,495,247)	\$ 948,142	\$ 12,611,747
All Other Revenue Sources	\$ 253,321	\$ 9,190,803	\$ 686,256	\$ 26,665	\$ (727,444)	\$ 9,429,601
<b>Subtotal</b>	<b>\$ 11,191,594</b>	<b>\$ 10,791,190</b>	<b>\$ 12,261,467</b>	<b>\$ 54,322</b>	<b>\$ 4,776,099</b>	<b>\$ 39,074,672</b>
<b>FUND 3420 – PUBLIC TRANSPORTATION</b>						
Fees Collected	\$ 72,618	\$ 25,113	\$ 45,152	\$ 54,546	\$ 70,380	\$ 267,809
Grant Monies	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
All Other Revenue Sources	\$ 2,943	\$ 8,694	\$ 13,128	\$ 126	\$ (13,976)	\$ 10,915
<b>Subtotal</b>	<b>\$ 75,561</b>	<b>\$ 33,807</b>	<b>\$ 58,280</b>	<b>\$ 54,672</b>	<b>\$ 56,404</b>	<b>\$ 278,724</b>
<b>FUND 3430 – AIR QUALITY MITIGATION</b>						
Fees Collected	\$ 170,138	\$ 75,705	\$ 161,162	\$ 25,814	\$ 3,528	\$ 436,347
Grant Monies	\$ 517,997	\$ -	\$ 12,879	\$ -	\$ -	\$ 530,876
All Other Revenue Sources	\$ (1,336)	\$ 31,056	\$ 14,453	\$ 113	\$ (2,803)	\$ 41,483
<b>Subtotal</b>	<b>\$ 686,799</b>	<b>\$ 106,761</b>	<b>\$ 188,494</b>	<b>\$ 25,927</b>	<b>\$ 725</b>	<b>\$ 1,008,706</b>
<b>FUND 3432 – PARKS AND AIR QUALITY</b>						
Fees Collected			\$ 500,440	\$ 1,168,952	\$ 2,243,935	\$ 3,913,327
Grant Monies			\$ -	\$ -	\$ -	\$ -
All Other Revenue Sources			\$ 11,826	\$ 1,472	\$ (263,233)	\$ (249,935)
<b>Subtotal</b>	<b>\$ -</b>	<b>\$ -</b>	<b>\$ 512,266</b>	<b>\$ 1,170,424</b>	<b>\$ 1,980,702</b>	<b>\$ 3,663,392</b>
<b>FUND 3440 – POLICE</b>						
Fees Collected	\$ 389,376	\$ 152,870	\$ 300,057	\$ 251,079	\$ 360,120	\$ 1,453,502
Grant Monies	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
All Other Revenue Sources	\$ 5,027	\$ 9,986	\$ 20,163	\$ (614)	\$ (15,932)	\$ 18,630
<b>Subtotal</b>	<b>\$ 394,403</b>	<b>\$ 162,856</b>	<b>\$ 320,220</b>	<b>\$ 250,465</b>	<b>\$ 344,188</b>	<b>\$ 1,472,132</b>
<b>FUND 3450 – FIRE</b>						
Fees Collected	\$ 145,364	\$ 61,022	\$ 126,470	\$ 125,491	\$ 171,598	\$ 629,945
Grant Monies	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
All Other Revenue Sources	\$ 2,419	\$ 5,361	\$ 7,477	\$ (141)	\$ (7,738)	\$ 7,378
<b>Subtotal</b>	<b>\$ 147,783</b>	<b>\$ 66,383</b>	<b>\$ 133,947</b>	<b>\$ 125,350</b>	<b>\$ 163,860</b>	<b>\$ 637,323</b>
<b>FUND 3460 – PARKS</b>						
Fees Collected	\$ 1,343,507	\$ 692,884	\$ 1,121,876	\$ 202,188	\$ 8,847	\$ 3,369,302
Grant Monies	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
All Other Revenue Sources	\$ 46,990	\$ 146,123	\$ 223,592	\$ 1,393	\$ (42,396)	\$ 375,702
<b>Subtotal</b>	<b>\$ 1,390,497</b>	<b>\$ 839,007</b>	<b>\$ 1,345,468</b>	<b>\$ 203,581</b>	<b>\$ (33,549)</b>	<b>\$ 3,745,004</b>
<b>FUND 3470 – GENERAL GOVERNMENT</b>						
Fees Collected	\$ 221,271	\$ 86,494	\$ 184,949	\$ 190,097	\$ 269,333	\$ 952,144
Grant Monies	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
All Other Revenue Sources	\$ 2,759	\$ 7,511	\$ 12,316	\$ (408)	\$ (9,820)	\$ 12,358
<b>Subtotal</b>	<b>\$ 224,030</b>	<b>\$ 94,005</b>	<b>\$ 197,265</b>	<b>\$ 189,689</b>	<b>\$ 259,513</b>	<b>\$ 964,502</b>
<b>FUND 3480 – ADMINISTRATION</b>						
Fees Collected	\$ 138,953	\$ 54,770	\$ 104,020	\$ 110,676	\$ 146,873	\$ 555,292
Grant Monies	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
All Other Revenue Sources	\$ 877	\$ 1,700	\$ 2,221	\$ 61	\$ (3,977)	\$ 882
<b>Subtotal</b>	<b>\$ 139,830</b>	<b>\$ 56,470</b>	<b>\$ 106,241</b>	<b>\$ 110,737</b>	<b>\$ 142,896</b>	<b>\$ 556,174</b>
<b>TOTAL</b>	<b>\$ 14,250,497</b>	<b>\$ 12,150,479</b>	<b>\$ 15,123,648</b>	<b>\$ 2,185,167</b>	<b>\$ 7,690,838</b>	<b>\$ 51,400,629</b>

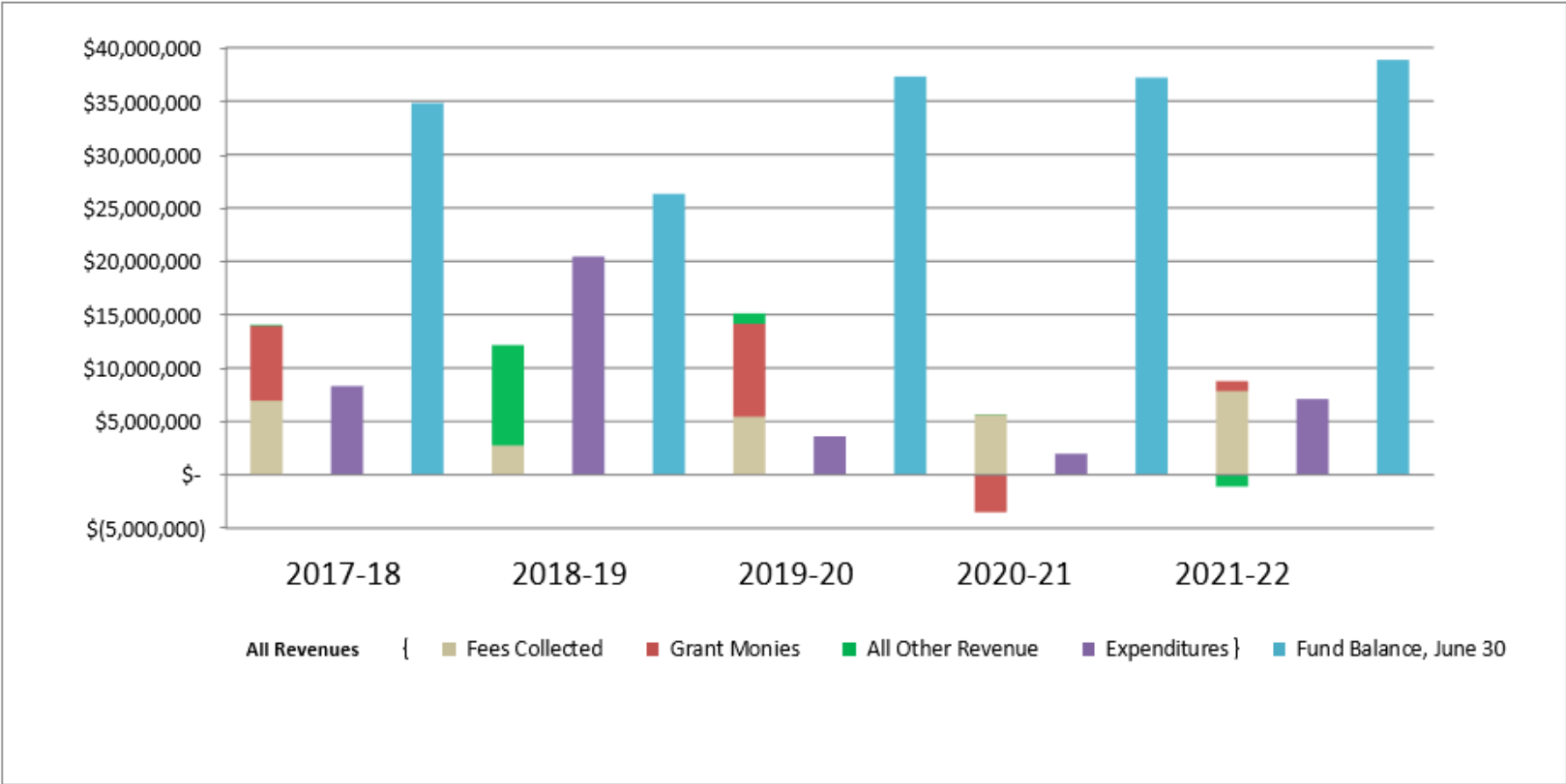
**CITY OF MODESTO  
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**Table 4: Five Year Expenditure History<sup>4</sup>**

<b>Fund</b>	<b>2017-18</b>	<b>2018-19</b>	<b>2019-20</b>	<b>2020-21</b>	<b>2021-22</b>	<b>Five Year Total</b>
Fund 3410 – Streets	\$ (7,587,438)	\$ (19,909,526)	\$ (3,308,019)	\$ (1,752,997)	\$ (3,914,103)	\$ (36,472,083)
Fund 3420 – Public Transportation	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
Fund 3430 – Air Quality Mitigation	\$ (618,128)	\$ (13,243)	\$ (8,228)	\$ (8,431)	\$ -	\$ (648,030)
Fund 3432 – Parks and Air Quality	-	\$ -	\$ -	\$ -	\$ -	\$ -
Fund 3440 – Police	-	\$ -	\$ -	\$ -	\$ -	\$ -
Fund 3450 – Fire	-	\$ -	\$ -	\$ -	\$ -	\$ -
Fund 3460 – Parks	\$ (81)	\$ (428,046)	\$ (201,162)	\$ (140,487)	\$ (103,046)	\$ (872,822)
Fund 3470 – General Government	-	\$ -	\$ -	\$ -	\$ -	\$ -
Fund 3480 – Administration	\$ (107,582)	\$ (87,478)	\$ (90,888)	\$ (76,394)	\$ (86,371)	\$ (448,713)
<b>TOTAL</b>	<b>\$ (8,313,229)</b>	<b>\$ (20,438,293)</b>	<b>\$ (3,608,297)</b>	<b>\$ (1,978,309)</b>	<b>\$ (4,103,520)</b>	<b>\$ (38,441,648)</b>

<sup>4</sup> Financial data is current as of November 1, 2022.

**Table 5: Five Year Revenue and Expenditure History<sup>5</sup>**



<sup>5</sup> Financial data is current as of November 1, 2022.

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**Table 6: Multifamily, Commercial and Industrial Deferrals**

Receivable Fund	Applicant	Address	Agreement Start Date	Agreement End Date	Years Remaining	Balance as of 30-Jun-21	Payoffs	Outstanding Balance 30-Jun-22
Fund 3410 Streets	Stephen & Richard Burton <sup>1</sup>	1533 E. Briggsmore Ave.	10/20/2016	10/20/2021	0	\$ 16,061.35	\$ 16,061.35	\$ -
	Wisdom Place LLC <sup>2</sup>	1600 Wisdom Way	1/30/2017	12/1/2021	1	\$ 41,471.51	\$ 41,471.51	\$ -
	Osiel & Karina Luna	605 Maze Blvd.	10/29/2020	12/1/2025	5	\$ 4,270.30	\$ 800.32	\$ 3,469.98
	Stanislaus Equity Partners <sup>3</sup>	112 James St.	10/14/2020	10/1/2025	5	\$ 25,571.96	\$ 25,571.96	\$ -
	1192 Norwegian Modesto L.P.	1192 Norwegian Ave.	12/22/2021	1/1/2027	5	\$ 66,327.21	\$ -	\$ 66,327.21
<b>Subtotal</b>						<b>\$ 153,702.33</b>	<b>\$ 83,905.14</b>	<b>\$ 69,797.19</b>
Fund 3420 Public Transportation	Stephen & Richard Burton <sup>1</sup>	1533 E. Briggsmore Ave.	10/20/2016	10/20/2021	0	\$ 317.83	\$ 317.83	\$ 0.00
	Wisdom Place LLC <sup>2</sup>	1600 Wisdom Way	1/30/2017	12/1/2021	1	\$ 606.41	\$ 606.41	\$ -
	Osiel & Karina Luna	605 Maze Blvd.	10/29/2020	12/1/2025	5	\$ 45.61	\$ 8.55	\$ 37.06
	Stanislaus Equity Partners <sup>3</sup>	112 James St.	10/14/2020	10/1/2025	5	\$ 375.20	\$ 375.20	\$ -
	1192 Norwegian Modesto L.P.	1192 Norwegian Ave.	12/22/2021	1/1/2027	5	\$ 973.05	\$ -	\$ 973.05
<b>Subtotal</b>						<b>\$ 2,318.10</b>	<b>\$ 1,307.99</b>	<b>\$ 1,010.11</b>
Fund 3430 Air Quality Mitigation	Stephen & Richard Burton <sup>1</sup>	1533 E. Briggsmore Ave.	10/20/2016	10/20/2021	0	\$ -	\$ -	\$ -
	Wisdom Place LLC <sup>2</sup>	1600 Wisdom Way	1/30/2017	12/1/2021	1	\$ 8,899.57	\$ 8,899.57	\$ -
	Stanislaus Equity Partners <sup>3</sup>	112 James St.	10/14/2020	10/1/2025	5	\$ 4,250.18	\$ 4,250.18	\$ -
<b>Subtotal</b>						<b>\$ 13,149.75</b>	<b>\$ 13,149.75</b>	<b>\$ -</b>
Fund 3432 Parks and Air Quality	Osiel & Karina Luna	605 Maze Blvd.	10/29/2020	12/1/2025	5	\$ 761.68	\$ 142.87	\$ 618.81
	1192 Norwegian Modesto L.P.	1192 Norwegian Ave.	12/22/2021	1/1/2027	5	\$ 60,329.15	\$ -	\$ 60,329.15
<b>Subtotal</b>						<b>\$ 61,090.83</b>	<b>\$ 142.87</b>	<b>\$ 60,947.96</b>
Fund 3440 Police	Stephen & Richard Burton <sup>1</sup>	1533 E. Briggsmore Ave.	10/20/2016	10/20/2021	0	\$ 445.99	\$ 445.99	\$ -
	Wisdom Place LLC <sup>2</sup>	1600 Wisdom Way	1/30/2017	12/1/2021	1	\$ 6,332.46	\$ 6,332.46	\$ -
	Stanislaus Equity Partners <sup>3</sup>	112 James St.	10/14/2020	10/1/2025	5	\$ 3,024.00	\$ 3,024.00	\$ -
	1192 Norwegian Modesto L.P.	1192 Norwegian Ave.	12/22/2021	1/1/2027	5	\$ 7,842.50	\$ -	\$ 7,842.50
<b>Subtotal</b>						<b>\$ 17,644.95</b>	<b>\$ 9,802.45</b>	<b>\$ 7,842.50</b>

1: Paid deferral off during mid-Fiscal Year 2021-22

2: Paid deferral off during mid-Fiscal year 2021-22

3: Stanislaus Equity Partners assumed the CFF Exemption on March 31, 2022

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**Table 6 cont'd: Multifamily, Commercial and Industrial Deferrals**

Receivable Fund	Applicant	Address	Agreement Start Date	Agreement End Date	Years Remaining	Balance as of 30-Jun-21	Payoffs	Outstanding Balance 30-Jun-22
Fund 3450 Fire	Stephen & Richard Burton <sup>1</sup>	1533 E. Briggsmore Ave.	10/20/2016	10/20/2021	0	\$ 146.59	\$ 146.59	\$ -
	Wisdom Place LLC <sup>2</sup>	1600 Wisdom Way	1/30/2017	12/1/2021	1	\$ 2,063.91	\$ 2,063.91	\$ -
	Stanislaus Equity Partners <sup>3</sup>	112 James St.	10/14/2020	10/1/2025	5	\$ 985.60	\$ 985.60	\$ -
	1192 Norwegian Modesto L.P.	1192 Norwegian Ave.	12/22/2021	1/1/2027	5	\$ 2,556.07	\$ -	\$ 2,556.07
<b>Subtotal</b>						<b>\$ 5,752.17</b>	<b>\$ 3,196.10</b>	<b>\$ 2,556.07</b>
Fund 3460 Parks	Stephen & Richard Burton <sup>1</sup>	1533 E. Briggsmore Ave.	10/20/2016	10/20/2021	0	\$ -	\$ -	\$ -
	Wisdom Place LLC <sup>2</sup>	1600 Wisdom Way	1/30/2017	12/1/2021	1	\$ 30,832.10	\$ 30,832.10	\$ -
	Stanislaus Equity Partners*	112 James St.	10/14/2020	10/1/2025	5	\$ 19,009.87	\$ 19,009.87	\$ -
<b>Subtotal</b>						<b>\$ 49,841.97</b>	<b>\$ 49,841.97</b>	<b>\$ -</b>
Fund 3470 General Government	Stephen & Richard Burton <sup>1</sup>	1533 E. Briggsmore Ave.	10/20/2016	10/20/2021	0	\$ 256.62	\$ 256.62	\$ -
	Wisdom Place LLC <sup>2</sup>	1600 Wisdom Way	1/30/2017	12/1/2021	1	\$ 3,623.57	\$ 3,623.57	\$ -
	Stanislaus Equity Partners <sup>3</sup>	112 James St.	10/14/2020	10/1/2025	5	\$ 1,730.40	\$ 1,730.40	\$ -
	1192 Norwegian Modesto L.P.	1192 Norwegian Ave.	12/22/2021	1/1/2027	5	\$ 4,487.65	\$ -	\$ 4,487.65
<b>Subtotal</b>						<b>\$ 10,098.24</b>	<b>\$ 5,610.59</b>	<b>\$ 4,487.65</b>
Fund 3480 Administration	Stephen & Richard Burton <sup>1</sup>	1533 E. Briggsmore Ave.	10/20/2016	10/20/2021	0	\$ 434.15	\$ 434.15	\$ -
	Wisdom Place LLC <sup>2</sup>	1600 Wisdom Way	1/30/2017	12/1/2021	1	\$ 1,805.63	\$ 407.25	\$ 1,398.38
	Osiel & Karina Luna	605 Maze Blvd.	10/29/2020	12/1/2025	5	\$ 104.17	\$ 19.52	\$ 84.65
	Stanislaus Equity Partners <sup>3</sup>	112 James St.	10/14/2020	10/1/2025	5	\$ 862.40	\$ 862.40	\$ -
	1192 Norwegian Modesto L.P.	1192 Norwegian Ave.	12/22/2021	1/1/2027	5	\$ 2,236.56	\$ -	\$ 2,236.56
<b>Subtotal</b>						<b>\$ 5,442.91</b>	<b>\$ 1,723.32</b>	<b>\$ 3,719.59</b>
<b>TOTAL</b>						<b>\$ 319,041.25</b>	<b>\$ 168,680.18</b>	<b>\$ 150,361.07</b>

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**Table 7a: Low Income Deferrals/Exemptions**

Fund	Applicant / Project	CFF Due	CFF Credit	CFF Paid
Fund 3410 Streets	Stanislaus Equity Partners CDC	\$ 25,571.96	\$ (25,571.96)	\$ -
<b>Subtotal</b>		\$ 25,571.96	\$ (25,571.96)	\$ -
Fund 3420 Public Transportation	Stanislaus Equity Partners CDC	\$ 375.20	\$ (375.20)	\$ -
<b>Subtotal</b>		\$ 375.20	\$ (375.20)	\$ -
Fund 3432 Parks and Air Quality	Stanislaus Equity Partners CDC	\$ 23,260.05	\$ (23,260.05)	\$ -
<b>Subtotal</b>		\$ 23,260.05	\$ (23,260.05)	\$ -
Fund 3440 Police	Stanislaus Equity Partners CDC	\$ 3,024.00	\$ (3,024.00)	\$ -
<b>Subtotal</b>		\$ 3,024.00	\$ (3,024.00)	\$ -
Fund 3450 Fire	Stanislaus Equity Partners CDC	\$ 985.60	\$ (985.60)	\$ -
<b>Subtotal</b>		\$ 985.60	\$ (985.60)	\$ -
Fund 3470 General Gov't	Stanislaus Equity Partners CDC	\$ 1,730.40	\$ (1,730.40)	\$ -
<b>Subtotal</b>		\$ 1,730.40	\$ (1,730.40)	\$ -
Fund 3480 Administration	Stanislaus Equity Partners CDC	\$ 862.40	\$ (862.40)	\$ -
<b>Subtotal</b>		\$ 862.40	\$ (862.40)	\$ -
<b>TOTAL</b>		<b>Total \$ 55,809.61</b>	<b>\$ (55,809.61)</b>	<b>\$ -</b>

**Table 7b: Refunds**

*There were no CFF refunds processed in Fiscal Year 2021-22.*

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**Table 8: Credits for Previously Existing Buildings**

<b>Fund</b>	<b>Address</b>	<b>CFF Due</b>	<b>CFF Credit</b>	<b>CFF Paid</b>
Fund 3410	632 Kerr Ave.	\$ 6,965.00	\$ (6,965.00)	\$ -
Streets	705 Signature Ct.	\$ 6,965.00	\$ (6,965.00)	\$ -
	928 Alamo Ave.	\$ 6,965.00	\$ (6,965.00)	\$ -
	1205 E Whitmore Ave.	\$ 12,412.22	\$ (3,557.66)	\$ 8,854.56
	1245 Alamo Ave.	\$ 6,965.00	\$ (6,965.00)	\$ -
	1323 Hillside Dr.	\$ 6,965.00	\$ (6,965.00)	\$ -
	1501 W Hatch Rd.	\$ 6,965.00	\$ (6,965.00)	\$ -
	2024 Ellis St.	\$ 6,965.00	\$ (6,965.00)	\$ -
	2307 Oakdale Rd. #95	\$ 4,824.00	\$ (4,824.00)	\$ -
	2600 W Rumble Rd.	\$ 6,822.00	\$ (6,822.00)	\$ -
	2720 Sparks Way	\$ 4,824.00	\$ (4,824.00)	\$ -
	3029 E Orangeburg Ave	\$ 4,824.00	\$ (2,321.81)	\$ 2,502.19
	3319 Esta Ave.	\$ 6,965.00	\$ (6,965.00)	\$ -
	3500 Roselle Ave.	\$ 62,511.12	\$ (62,511.12)	\$ -
	3801 Pelandale Ave.	\$ 21,709.49	\$ (21,709.49)	\$ -
	900/924 Crows Landing Rd.	\$ 73,480.00	\$ (19,855.87)	\$ 53,624.13
<b>Subtotal</b>		\$ 247,126.83	\$ (182,145.95)	\$ 64,980.88
Fund 3420	632 Kerr Ave.	\$ 101.00	\$ (101.00)	\$ -
Public	705 Signature Ct.	\$ 101.00	\$ (101.00)	\$ -
Transportation	928 Alamo Ave.	\$ 101.00	\$ (101.00)	\$ -
	1205 E Whitmore Ave.	\$ 219.79	\$ (63.00)	\$ 156.79
	1245 Alamo Ave.	\$ 101.00	\$ (101.00)	\$ -
	1323 Hillside Dr.	\$ 101.00	\$ (101.00)	\$ -
	1501 W Hatch Rd.	\$ 101.00	\$ (101.00)	\$ -
	2024 Ellis St.	\$ 101.00	\$ (101.00)	\$ -
	2307 Oakdale Rd. #95	\$ 70.00	\$ (70.00)	\$ -
	2600 W Rumble Rd.	\$ 99.00	\$ (99.00)	\$ -
	2720 Sparks Way	\$ 70.00	\$ (70.00)	\$ -
	3029 E Orangeburg Ave	\$ 70.00	\$ (33.49)	\$ 36.51
	3319 Esta Ave.	\$ 101.00	\$ (101.00)	\$ -
	3500 Roselle Ave.	\$ 1,252.42	\$ (1,252.42)	\$ -
	3801 Pelandale Ave.	\$ 421.81	\$ (421.81)	\$ -
	900/924 Crows Landing Rd.	\$ 1,412.90	\$ (363.95)	\$ 1,048.95
<b>Subtotal</b>		\$ 4,423.92	\$ (3,181.67)	\$ 1,242.25
Fund 3432	632 Kerr Ave.	\$ 6,379.00	\$ (6,379.00)	\$ -
Parks and	705 Signature Ct.	\$ 6,379.00	\$ (6,379.00)	\$ -
Air Quality	928 Alamo Ave.	\$ 6,379.00	\$ (6,379.00)	\$ -
	1205 E Whitmore Ave.	\$ -	\$ -	\$ -
	1245 Alamo Ave.	\$ 6,379.00	\$ (6,379.00)	\$ -
	1323 Hillside Dr.	\$ 6,379.00	\$ (6,379.00)	\$ -
	1501 W Hatch Rd.	\$ 6,379.00	\$ (6,379.00)	\$ -
	2024 Ellis St.	\$ 6,379.00	\$ (6,379.00)	\$ -
	2307 Oakdale Rd. #95	\$ 4,389.00	\$ (4,389.00)	\$ -
	2600 W Rumble Rd.	\$ 6,248.00	\$ (6,248.00)	\$ -
	2720 Sparks Way	\$ 4,389.00	\$ (4,389.00)	\$ -
	3029 E Orangeburg Ave	\$ 4,389.00	\$ (2,112.01)	\$ 2,276.99
	3319 Esta Ave.	\$ 6,379.00	\$ (6,379.00)	\$ -
	3500 Roselle Ave.	\$ -	\$ -	\$ -
	3801 Pelandale Ave.	\$ -	\$ -	\$ -
	900/924 Crows Landing Rd.	\$ -	\$ -	\$ -
<b>Subtotal</b>		\$ 70,447.00	\$ (68,170.01)	\$ 2,276.99

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**Table 8, cont'd: Credits for Previously Existing Buildings**

<b>Subtotal</b>		\$ 70,447.00	\$ (68,170.01)	\$ 2,276.99
Fund 3440	632 Kerr Ave.	\$ 647.00	\$ (647.00)	\$ -
Police	705 Signature Ct.	\$ 647.00	\$ (647.00)	\$ -
	928 Alamo Ave.	\$ 647.00	\$ (647.00)	\$ -
	1205 E Whitmore Ave.	\$ 568.02	\$ (162.81)	\$ 405.21
	1245 Alamo Ave.	\$ 647.00	\$ (647.00)	\$ -
	1323 Hillside Dr.	\$ 647.00	\$ (647.00)	\$ -
	1501 W Hatch Rd.	\$ 647.00	\$ (647.00)	\$ -
	2024 Ellis St.	\$ 647.00	\$ (647.00)	\$ -
	2307 Oakdale Rd. #95	\$ 390.00	\$ (390.00)	\$ -
	2600 W Rumble Rd.	\$ 634.00	\$ (634.00)	\$ -
	2720 Sparks Way	\$ 390.00	\$ (390.00)	\$ -
	3029 E Orangeburg Ave	\$ 390.00	\$ (187.59)	\$ 202.41
	3319 Esta Ave.	\$ 647.00	\$ (647.00)	\$ -
	3500 Roselle Ave.	\$ 1,389.45	\$ (1,389.45)	\$ -
	3801 Pelandale Ave.	\$ 558.21	\$ (558.21)	\$ -
	900/924 Crows Landing Rd.	\$ 1,841.90	\$ (733.68)	\$ 1,108.22
<b>Subtotal</b>		\$ 11,337.58	\$ (9,621.74)	\$ 1,715.84
Fund 3450	632 Kerr Ave.	\$ 403.00	\$ (403.00)	\$ -
Fire	705 Signature Ct.	\$ 403.00	\$ (403.00)	\$ -
	928 Alamo Ave.	\$ 403.00	\$ (403.00)	\$ -
	1205 E Whitmore Ave.	\$ 272.59	\$ (78.13)	\$ 194.46
	1245 Alamo Ave.	\$ 403.00	\$ (403.00)	\$ -
	1323 Hillside Dr.	\$ 403.00	\$ (403.00)	\$ -
	1501 W Hatch Rd.	\$ 403.00	\$ (403.00)	\$ -
	2024 Ellis St.	\$ 403.00	\$ (403.00)	\$ -
	2307 Oakdale Rd. #95	\$ 186.00	\$ (186.00)	\$ -
	2600 W Rumble Rd.	\$ 395.00	\$ (395.00)	\$ -
	2720 Sparks Way	\$ 186.00	\$ (186.00)	\$ -
	3029 E Orangeburg Ave	\$ 186.00	\$ (89.36)	\$ 96.64
	3319 Esta Ave.	\$ 403.00	\$ (403.00)	\$ -
	3500 Roselle Ave.	\$ 666.37	\$ (666.37)	\$ -
	3801 Pelandale Ave.	\$ 266.42	\$ (266.42)	\$ -
	900/924 Crows Landing Rd.	\$ 890.30	\$ (353.52)	\$ 536.78
<b>Subtotal</b>		\$ 6,272.68	\$ (5,444.80)	\$ 827.88
Fund 3470	632 Kerr Ave.	\$ 534.00	\$ (534.00)	\$ -
General	705 Signature Ct.	\$ 534.00	\$ (534.00)	\$ -
Government	928 Alamo Ave.	\$ 534.00	\$ (534.00)	\$ -
	1205 E Whitmore Ave.	\$ 476.68	\$ (136.63)	\$ 340.05
	1245 Alamo Ave.	\$ 534.00	\$ (534.00)	\$ -
	1323 Hillside Dr.	\$ 534.00	\$ (534.00)	\$ -
	1501 W Hatch Rd.	\$ 534.00	\$ (534.00)	\$ -
	2024 Ellis St.	\$ 534.00	\$ (534.00)	\$ -
	2307 Oakdale Rd. #95	\$ 327.00	\$ (327.00)	\$ -
	2600 W Rumble Rd.	\$ 522.00	\$ (522.00)	\$ -
	2720 Sparks Way	\$ 327.00	\$ (327.00)	\$ -
	3029 E Orangeburg Ave	\$ 327.00	\$ (157.34)	\$ 169.66
	3319 Esta Ave.	\$ 534.00	\$ (534.00)	\$ -
	3500 Roselle Ave.	\$ 1,162.61	\$ (1,162.61)	\$ -
	3801 Pelandale Ave.	\$ 469.39	\$ (469.39)	\$ -
	900/924 Crows Landing Rd.	\$ 1,551.80	\$ (616.62)	\$ 935.18
<b>Subtotal</b>		\$ 9,435.48	\$ (7,990.59)	\$ 1,444.89

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**Table 8, cont'd: Credits for Previously Existing Buildings**

<b><i>Subtotal</i></b>		\$ 9,435.48	\$ (7,990.59)	\$ 1,444.89
Fund 3480	632 Kerr Ave.	\$ 302.00	\$ (302.00)	\$ -
Administration	705 Signature Ct.	\$ 302.00	\$ (302.00)	\$ -
	928 Alamo Ave.	\$ 302.00	\$ (302.00)	\$ -
	1205 E Whitmore Ave.	\$ 322.54	\$ (92.45)	\$ 230.09
	1245 Alamo Ave.	\$ 302.00	\$ (302.00)	\$ -
	1323 Hillside Dr.	\$ 302.00	\$ (302.00)	\$ -
	1501 W Hatch Rd.	\$ 302.00	\$ (302.00)	\$ -
	2024 Ellis St.	\$ 302.00	\$ (302.00)	\$ -
	2307 Oakdale Rd. #95	\$ 164.00	\$ (164.00)	\$ -
	2600 W Rumble Rd.	\$ 296.00	\$ (296.00)	\$ -
	2720 Sparks Way	\$ 164.00	\$ (164.00)	\$ -
	3029 E Orangeburg Ave	\$ 164.00	\$ (79.17)	\$ 84.83
	3319 Esta Ave.	\$ 302.00	\$ (302.00)	\$ -
	3500 Roselle Ave.	\$ 1,724.98	\$ (1,724.98)	\$ -
	3801 Pelandale Ave.	\$ 593.07	\$ (593.07)	\$ -
	900/924 Crows Landing Rd.	\$ 1,962.80	\$ (521.57)	\$ 1,441.23
<b><i>Subtotal</i></b>		\$ 7,807.33	\$ (6,051.24)	\$ 1,756.15
<b>TOTAL</b>		\$ 356,850.88	\$ (282,606.00)	\$ 74,244.88

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**Table 9: Transfers within Capital Facilities Fees Funds<sup>6</sup>**

Fund	Transfer Description	Loan Maturity Date	Rate of Interest	Transfer Amount
Fund 3410 - Streets	Transfer Out to Fund 3160 - Pavement Rehabilitation of Crows Land Rd, Pelandale & Standiford			\$ (1,356)
	Transfer Out to Fund 3160 - Pelandale Ave Interchange - Phase II			\$ (246,701)
	Transfer Out to Fund 3160 - SR132 West Expressway - CON			\$ (1,623,872)
	Transfer Out to Fund 5230 - Hyland OnBase Agenda Management & Docusign <sup>1</sup>			\$ (2,936)
	Transfer In from Fund 0100 <sup>2</sup> - Incorrectly Deposited into General Fund, CFF Deferral Payment			\$ 162,238
	Transfer In from Fund 4211 <sup>3</sup> - Incorrectly Deposited into Wastewater Fund, CFF Deferral Payment			\$ 17,574
				<b>\$ (1,695,053)</b>
Fund 3420 - Public Transportation	Transfer In from Fund 0100 <sup>2</sup> - Incorrectly Deposited into General Fund, CFF Deferral Payment			\$ 2,994
	Transfer In from Fund 4211 <sup>3</sup> - Incorrectly Deposited into Wastewater Fund, CFF Deferral Payment			\$ 344
				<b>\$ 3,338</b>
Fund 3430 - Air Quality	Transfer Out to Fund 5230 - Hyland OnBase Agenda Management & Docusign <sup>1</sup>			\$ (1,305)
	Transfer In from Fund 0100 <sup>2</sup> - Incorrectly Deposited into General Fund, CFF Deferral Payment			\$ 6,457
				<b>\$ 5,152</b>
Fund 3432 - Parks & Air Quality				\$ -
				<b>\$ -</b>

1: This transfer was incorrectly applied and will be transferred out in Fiscal Year 2022-23

2: This transfer was a CFF Deferral Payment that was intended to be deposited in CFF Funds but was incorrectly deposited into the General Fund.

3: This transfer was a CFF Deferral Payment that was intended to be deposited in CFF Funds but was incorrectly deposited into the Wastewater Fund.

<sup>6</sup> Financial data is current as of November 1, 2022.

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**Table 9 Con't: Transfers within Capital Facilities Fees Funds**

Fund	Transfer Description	Loan Maturity Date	Rate of Interest	Transfer Amount
Fund 3440 - Police	Transfer Out to Fund 0100 - Police Department Headquarters			\$ (215,000)
	Transfer In from Fund 0100 <sup>2</sup> - Incorrectly Deposited into General Fund, CFF Deferral Payment			\$ 8,879
	Transfer In from Fund 4211 <sup>3</sup> - Incorrectly Deposited into Wastewater Fund, CFF Deferral Payment			\$ 704
				<b>\$ (205,417)</b>
Fund 3450 - Fire	Transfer Out to Fund 0100 - Fire Station #11			\$ (105,000)
	Transfer In from Fund 0100 <sup>2</sup> - Incorrectly Deposited into General Fund, CFF Deferral Payment			\$ 2,904
	Transfer In from Fund 4211 <sup>3</sup> - Incorrectly Deposited into Wastewater Fund, CFF Deferral Payment			\$ 231
				<b>\$ (101,865)</b>
Fund 3460 - Parks	Transfer Out to Fund 3140- Dry Creek to TRRP Trail Connection			\$ (10,191)
	Transfer Out to Fund 6710- TRRP Rover Pavilion			\$ (8,326)
	Transfer Out to Fund 6710 - TRRP Riverwalk Gateway to Legion			\$ (30,978)
	Transfer In from Fund 3130 - Mary E. Grogan Community Park Maintenance Facility Building- Final Balancing from Parks Fund			\$ (4,682)
	Transfer In from Fund 0100 <sup>2</sup> - Incorrectly Deposited into General Fund, CFF Deferral Payment			\$ 28,883
				<b>\$ (25,295)</b>
Fund 3470 -General Government	Transfer Out to Fund 0100 - 2008 Lease Revenue Bonds paid through 2034			\$ (175,000)
	Transfer In from Fund 0100 <sup>2</sup> - Incorrectly Deposited into General Fund, CFF Deferral Payment			\$ 5,096
	Transfer In from Fund 4211 <sup>3</sup> - Incorrectly Deposited into Wastewater Fund, CFF Deferral Payment			\$ 405
				<b>\$ (169,499)</b>
Fund 3480 - Administration	Transfer Out to Fund 5230- Hyland OnBase Agenda Management & DocuSign			\$ (1,305)
	Transfer In from Fund 0100 <sup>2</sup> - Incorrectly Deposited into General Fund, CFF Deferral Payment			\$ 4,652
	Transfer In from Fund 4211 <sup>3</sup> - Incorrectly Deposited into Wastewater Fund, CFF Deferral Payment			\$ 477
				<b>\$ 3,824</b>
<b>TOTAL</b>				<b>\$ (2,184,815)</b>

**CITY OF MODESTO  
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**Table 10: Capital Improvement Program (CIP) Expenditures<sup>7</sup>**

Fund	CIP Project Number	Project Name	% Funded by Fee	% Funded by Other	Budget	Expenditures up to June 30, 2021	Committed Funds	FY 2021/22 Expenditures	Balance Available	Estimated Construction Start FY	Estimated Construction End FY
Fund 3410 Streets	100046	Pelandale Interch at SR99	71%	29%	\$ 9,509,987	\$ 8,801,521	\$ 381,528	\$ 382,988	\$ 326,938	2014/15	2023/24
	100048	Claratina/McHenry Plan Lane	100%	0%	\$ 341,500	\$ 39,005	\$ -	\$ -	\$ 302,495	2023/24	2024/25
	100051	Claratina: McHenry/Coffee 4 Ln	100%	0%	\$ 6,062,911	\$ 4,180,711	\$ 585,466	\$ -	\$ 1,296,734	2023/24	2025/26
	100586	CED - 7th St Bridge Tuolumne	93%	7%	\$ 1,284,893	\$ 442,755	\$ -	\$ 41,276	\$ 800,862	2023/24	2024/25
	100614	State Route 132 W. Express	13%	87%	\$34,482,830	\$ 30,375,245	\$ 66,099	\$ 2,499,921	\$ 1,541,566	2019/20	2023/24
	100632	Rt Turn Ln McHenry to Briggs	38%	62%	\$ 3,021,892	\$ 1,052,653	\$ 1,276	\$ 925,315	\$ 1,042,649	2020/21	2022/23
	100944	Tuolumne, 7th & B Intersection	100%	0%	\$ 350,000	\$ 508	\$ -	\$ -	\$ 349,492	2023/24	2024/25
	100945	Hetch-Hetchy Crossing	100%	0%	\$ 5,070,000	\$ 454,111	\$ 93,307	\$ 16,555	\$ 4,506,026	2023/24	2024/25
	101181	Claus Road Plan Line	100%	0%	\$ 250,000	\$ -	\$ -	\$ -	\$ 250,000	2024/25	2025/26
	101182	Standiford Interchange PID	69%	31%	\$ 3,598,000	\$ 40,078	\$ -	\$ 48,056	\$ 3,509,866	2028/29	2029/30
<b>Subtotal</b>								<b>\$ 3,914,111</b>			
Fund 3460 Parks	101017	Mary Grogan Park - Phase 2	100%	0%	\$ 2,963,588	\$ 77,726	\$ 170,306	\$ 43,003	\$ 2,672,553	2022/23	2023/24
<b>Subtotal</b>								<b>\$ 43,003</b>			
<b>TOTAL</b>								<b>\$ 3,957,114</b>			

<sup>7</sup> Financial data is current as of November 1, 2022.

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**Table 11: Exemptions for Accessory Dwelling Units**

<b>Fund</b>	<b>Address</b>	<b>CFF Due</b>	<b>CFF Credit</b>	<b>CFF Paid</b>
Fund 34 10	105 Lita Ct.	\$ 6,965.00	\$ (2,275.47)	\$ 4,689.53
Streets	125 Pine St.	\$ 4,824.00	\$ (4,824.00)	\$ -
	127 Madera Ave.	\$ 4,824.00	\$ (4,824.00)	\$ -
	2 14 James St.	\$ 4,824.00	\$ (4,824.00)	\$ -
	3 14 Alturas Ave.	\$ 4,824.00	\$ (4,824.00)	\$ -
	3 16 Burney St.	\$ 3,704.35	\$ (3,117.65)	\$ 586.70
	401K St.	\$ 4,824.00	\$ (4,824.00)	\$ -
	5 11 Vine St.	\$ 4,824.00	\$ (4,824.00)	\$ -
	5 15 Ramona Ave.	\$ 4,824.00	\$ (4,824.00)	\$ -
	709 Conejo Ave	\$ 4,824.00	\$ (4,824.00)	\$ -
	7 11 Empire Ave.	\$ 4,824.00	\$ (4,824.00)	\$ -
	9 16 Mandana Ct.	\$ 4,824.00	\$ (4,824.00)	\$ -
	9 18 Helms Ln	\$ 5,450.00	\$ (5,450.00)	\$ -
	10 14 Ulrich Ave.	\$ 4,824.00	\$ (4,824.00)	\$ -
	10 20 Empire Ave.	\$ 4,725.00	\$ -	\$ 4,725.00
	10 24 Hawthorne Ave.	\$ 4,824.00	\$ -	\$ 4,824.00
	1100 Springfield Way	\$ 4,824.00	\$ (4,824.00)	\$ -
	110 1E Rumble Rd.	\$ 6,965.00	\$ (3,860.00)	\$ 3,105.00
	134 1W Orangeburg Ave.	\$ 4,824.00	\$ (4,824.00)	\$ -
	1448 Water St.	\$ 4,824.00	\$ (4,824.00)	\$ -
	15 10 Vernon Ave.	\$ 4,824.00	\$ -	\$ 4,824.00
	15 16 Grape Ave.	\$ 4,824.00	\$ (4,824.00)	\$ -
	1560 Church Ln.	\$ 5,450.00	\$ -	\$ 5,450.00
	160 1Rouse Ave.	\$ 4,824.00	\$ (4,824.00)	\$ -
	1606 Bronson Ave.	\$ 4,824.00	\$ (4,824.00)	\$ -
	1928 Rouse Ave.	\$ 4,824.00	\$ (4,824.00)	\$ -
	2 109 Aloha Way	\$ 4,824.00	\$ (4,824.00)	\$ -
	2 112 Winslow Ct.	\$ 4,824.00	\$ (4,824.00)	\$ -
	2 137 Eicher Ave.	\$ 4,824.00	\$ (4,824.00)	\$ -
	2206 Carol St.	\$ 4,824.00	\$ (4,824.00)	\$ -
	2525 Crommelin Ave.	\$ 4,824.00	\$ (4,824.00)	\$ -
	2552 Chandon Cir.	\$ 4,824.00	\$ (4,824.00)	\$ -
	2609 Lahontan Dr.	\$ 4,824.00	\$ (4,824.00)	\$ -
	2720 Sparks Way	\$ 4,824.00	\$ (4,824.00)	\$ -
	3017 Conant Ave.	\$ 4,824.00	\$ -	\$ 4,824.00
<b>Subtotal</b>		\$ 173,155.35	\$ (140,127.12)	\$ 33,028.23

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**Table 11, cont'd: Exemptions for Accessory Dwelling Units**

<b>Fund</b>	<b>Address</b>	<b>CFF Due</b>	<b>CFF Credit</b>	<b>CFF Paid</b>
Fund 3420	105 Lita Ct.	\$ 101.00	\$ (33.00)	\$ 68.00
Public	125 Pine St.	\$ 70.00	\$ (70.00)	\$ -
Transportation	127 Madera Ave.	\$ 70.00	\$ (70.00)	\$ -
	214 James St.	\$ 70.00	\$ (70.00)	\$ -
	314 Alturas Ave.	\$ 70.00	\$ (70.00)	\$ -
	316 Burney St.	\$ 53.76	\$ (45.24)	\$ 8.52
	401K St.	\$ 70.00	\$ (70.00)	\$ -
	511 Vine St.	\$ 70.00	\$ (70.00)	\$ -
	515 Ramona Ave.	\$ 70.00	\$ (70.00)	\$ -
	709 Conejo Ave	\$ 70.00	\$ -	\$ 70.00
	711 Empire Ave.	\$ 70.00	\$ (70.00)	\$ -
	916 Mandana Ct.	\$ 70.00	\$ (70.00)	\$ -
	918 Helms Ln	\$ 58.00	\$ (58.00)	\$ -
	1014 Ulrich Ave.	\$ 70.00	\$ (70.00)	\$ -
	1020 Empire Ave.	\$ 69.00	\$ -	\$ 69.00
	1024 Hawthorne Ave.	\$ 70.00	\$ -	\$ 70.00
	1100 Springfield Way	\$ 70.00	\$ (70.00)	\$ -
	1101E Rumble Rd.	\$ 101.00	\$ (55.97)	\$ 45.03
	1341W Orangeburg Ave.	\$ 70.00	\$ (70.00)	\$ -
	1448 Water St.	\$ 70.00	\$ (70.00)	\$ -
	1510 Vernon Ave.	\$ 70.00	\$ -	\$ 70.00
	1516 Grape Ave.	\$ 70.00	\$ (70.00)	\$ -
	1560 Church Ln.	\$ 58.00	\$ -	\$ 58.00
	1601Rouse Ave.	\$ 70.00	\$ (70.00)	\$ -
	1606 Bronson Ave.	\$ 70.00	\$ (70.00)	\$ -
	1928 Rouse Ave.	\$ 70.00	\$ (70.00)	\$ -
	2109 Aloha Way	\$ 70.00	\$ (70.00)	\$ -
	2112 Winslow Ct.	\$ 70.00	\$ (70.00)	\$ -
	2137 Eicher Ave.	\$ 70.00	\$ (70.00)	\$ -
	2206 Carol St.	\$ 70.00	\$ (70.00)	\$ -
	2525 Crommelin Ave.	\$ 70.00	\$ (70.00)	\$ -
	2552 Chandon Cir.	\$ 70.00	\$ (70.00)	\$ -
	2609 Lahontan Dr.	\$ 70.00	\$ (70.00)	\$ -
	2720 Sparks Way	\$ 70.00	\$ (70.00)	\$ -
	3017 Conant Ave.	\$ 70.00	\$ -	\$ 70.00
<b>Subtotal</b>		\$ 2,470.76	\$ (1,942.21)	\$ 528.55

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**Table 11, cont'd: Exemptions for Accessory Dwelling Units**

<b>Fund</b>	<b>Address</b>	<b>CFF Due</b>	<b>CFF Credit</b>	<b>CFF Paid</b>
Fund 3432	105 Lita Ct.	\$ 6,379.00	\$ (2,084.02)	\$ 4,294.98
Parks and	125 Pine St.	\$ 4,389.00	\$ (4,389.00)	\$ -
Air Quality	127 Madera Ave.	\$ 4,389.00	\$ (4,389.00)	\$ -
	214 James St.	\$ 4,389.00	\$ (4,389.00)	\$ -
	314 Alturas Ave.	\$ 4,389.00	\$ (4,389.00)	\$ -
	316 Burney St.	\$ 3,392.66	\$ (2,855.34)	\$ 537.32
	401K St.	\$ 4,389.00	\$ (4,389.00)	\$ -
	511Vine St.	\$ 4,389.00	\$ (4,389.00)	\$ -
	515 Ramona Ave.	\$ 4,389.00	\$ (4,389.00)	\$ -
	709 Conejo Ave	\$ 4,389.00	\$ -	\$ 4,389.00
	711 Empire Ave.	\$ 4,389.00	\$ (4,389.00)	\$ -
	916 Mandana Ct.	\$ 4,389.00	\$ (4,389.00)	\$ -
	918 Helms Ln	\$ 973.00	\$ (973.00)	\$ -
	1014 Ulrich Ave.	\$ 4,389.00	\$ (4,389.00)	\$ -
	1020 Empire Ave.	\$ 4,229.00	\$ -	\$ 4,229.00
	1024 Hawthorne Ave.	\$ 4,389.00	\$ -	\$ 4,389.00
	1100 Springfield Way	\$ 4,389.00	\$ (4,389.00)	\$ -
	1101 E Rumble Rd.	\$ 6,379.00	\$ (3,535.24)	\$ 2,843.76
	1341 W Orangeburg Ave.	\$ 4,389.00	\$ (4,389.00)	\$ -
	1448 Water St.	\$ 4,389.00	\$ (4,389.00)	\$ -
	1510 Vernon Ave.	\$ 4,389.00	\$ -	\$ 4,389.00
	1516 Grape Ave.	\$ 4,389.00	\$ (4,389.00)	\$ -
	1560 Church Ln.	\$ 973.00	\$ -	\$ 973.00
	1601 Rouse Ave.	\$ 4,389.00	\$ (4,389.00)	\$ -
	1606 Bronson Ave.	\$ 4,389.00	\$ (4,389.00)	\$ -
	1928 Rouse Ave.	\$ 4,389.00	\$ (4,389.00)	\$ -
	2109 Aloha Way	\$ 4,389.00	\$ (4,389.00)	\$ -
	2112 Winslow Ct.	\$ 4,389.00	\$ (4,389.00)	\$ -
	2137 Eicher Ave.	\$ 4,389.00	\$ (4,389.00)	\$ -
	2206 Carol St.	\$ 4,389.00	\$ (4,389.00)	\$ -
	2525 Crommelin Ave.	\$ 4,389.00	\$ (4,389.00)	\$ -
	2552 Chandon Cir.	\$ 4,389.00	\$ (4,389.00)	\$ -
	2609 Lahontan Dr.	\$ 4,389.00	\$ (4,389.00)	\$ -
	2720 Sparks Way	\$ 4,389.00	\$ (4,389.00)	\$ -
	3017 Conant Ave.	\$ 4,389.00	\$ -	\$ 4,389.00
<b>Subtotal</b>		<b>\$ 149,606.66</b>	<b>\$ (119,172.60)</b>	<b>\$ 30,434.06</b>

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**Table 11, cont'd: Exemptions for Accessory Dwelling Units**

<b>Fund</b>	<b>Address</b>	<b>CFF Due</b>	<b>CFF Credit</b>	<b>CFF Paid</b>
Fund 3440	105 Lita Ct.	\$ 647.00	\$ (211.37)	\$ 435.63
Police	125 Pine St.	\$ 390.00	\$ (390.00)	\$ -
	127 Madera Ave.	\$ 390.00	\$ (390.00)	\$ -
	214 James St.	\$ 390.00	\$ (390.00)	\$ -
	314 Alturas Ave.	\$ 390.00	\$ (390.00)	\$ -
	316 Burney St.	\$ 344.26	\$ (289.74)	\$ 54.52
	401K St.	\$ 390.00	\$ (390.00)	\$ -
	511Vine St.	\$ 390.00	\$ (390.00)	\$ -
	515 Ramona Ave.	\$ 390.00	\$ (390.00)	\$ -
	709 Conejo Ave	\$ 390.00	\$ -	\$ 390.00
	711 Empire Ave.	\$ 390.00	\$ (390.00)	\$ -
	916 Mandana Ct.	\$ 390.00	\$ (390.00)	\$ -
	918 Helms Ln	\$ -	\$ -	\$ -
	1014 Ulrich Ave.	\$ 390.00	\$ (390.00)	\$ -
	1020 Empire Ave.	\$ 382.00	\$ -	\$ 382.00
	1024 Hawthorne Ave.	\$ 390.00	\$ -	\$ 390.00
	1100 Springfield Way	\$ 390.00	\$ (390.00)	\$ -
	1101E Rumble Rd.	\$ 647.00	\$ (358.57)	\$ 288.43
	1341W Orangeburg Ave.	\$ 390.00	\$ (390.00)	\$ -
	1448 Water St.	\$ 390.00	\$ (390.00)	\$ -
	1510 Vernon Ave.	\$ 390.00	\$ -	\$ 390.00
	1516 Grape Ave.	\$ 390.00	\$ (390.00)	\$ -
	1560 Church Ln.	\$ -	\$ -	\$ -
	1601Rouse Ave.	\$ 390.00	\$ (390.00)	\$ -
	1606 Bronson Ave.	\$ 390.00	\$ (390.00)	\$ -
	1928 Rouse Ave.	\$ 390.00	\$ (390.00)	\$ -
	2109 Aloha Way	\$ 390.00	\$ (390.00)	\$ -
	2112 Winslow Ct.	\$ 390.00	\$ (390.00)	\$ -
	2137 Eicher Ave.	\$ 390.00	\$ (390.00)	\$ -
	2206 Carol St.	\$ 390.00	\$ (390.00)	\$ -
	2525 Crommelin Ave.	\$ 390.00	\$ (390.00)	\$ -
	2552 Chandon Cir.	\$ 390.00	\$ (390.00)	\$ -
	2609 Lahontan Dr.	\$ 390.00	\$ (390.00)	\$ -
	2720 Sparks Way	\$ 390.00	\$ (390.00)	\$ -
	3017 Conant Ave.	\$ 390.00	\$ -	\$ 390.00
<b>Subtotal</b>		<b>\$ 13,330.26</b>	<b>\$ (10,609.68)</b>	<b>\$ 2,720.58</b>

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**Table 11, cont'd: Exemptions for Accessory Dwelling Units**

<b>Fund</b>	<b>Address</b>	<b>CFF Due</b>	<b>CFF Credit</b>	<b>CFF Paid</b>
Fund 3450	105 Lita Ct.	\$ 403.00	\$ (131.66)	\$ 271.34
Fire	125 Pine St.	\$ 186.00	\$ (186.00)	\$ -
	127 Madera Ave.	\$ 186.00	\$ (186.00)	\$ -
	214 James St.	\$ 186.00	\$ (186.00)	\$ -
	314 Alturas Ave.	\$ 186.00	\$ (186.00)	\$ -
	316 Burney St.	\$ 214.49	\$ (180.52)	\$ 33.97
	401K St.	\$ 186.00	\$ (186.00)	\$ -
	511Vine St.	\$ 186.00	\$ (186.00)	\$ -
	515 Ramona Ave.	\$ 186.00	\$ (186.00)	\$ -
	709 Conejo Ave	\$ 186.00	\$ -	\$ 186.00
	711 Empire Ave.	\$ 186.00	\$ (186.00)	\$ -
	916 Mandana Ct.	\$ 186.00	\$ (186.00)	\$ -
	918 Helms Ln	\$ -	\$ -	\$ -
	1014 Ulrich Ave.	\$ 186.00	\$ (186.00)	\$ -
	1020 Empire Ave.	\$ 182.00	\$ -	\$ 182.00
	1024 Hawthorne Ave.	\$ 186.00	\$ -	\$ 186.00
	1100 Springfield Way	\$ 186.00	\$ (186.00)	\$ -
	1101E Rumble Rd.	\$ 403.00	\$ (223.34)	\$ 179.66
	1341W Orangeburg Ave.	\$ 186.00	\$ (186.00)	\$ -
	1448 Water St.	\$ 186.00	\$ (186.00)	\$ -
	1510 Vernon Ave.	\$ 186.00	\$ -	\$ 186.00
	1516 Grape Ave.	\$ 186.00	\$ (186.00)	\$ -
	1560 Church Ln.	\$ -	\$ -	\$ -
	1601Rouse Ave.	\$ 186.00	\$ (186.00)	\$ -
	1606 Bronson Ave.	\$ 186.00	\$ (186.00)	\$ -
	1928 Rouse Ave.	\$ 186.00	\$ (186.00)	\$ -
	2109 Aloha Way	\$ 186.00	\$ (186.00)	\$ -
	2112 Winslow Ct.	\$ 186.00	\$ (186.00)	\$ -
	2137 Eicher Ave.	\$ 186.00	\$ (186.00)	\$ -
	2206 Carol St.	\$ 186.00	\$ (186.00)	\$ -
	2525 Crommelin Ave.	\$ 186.00	\$ (186.00)	\$ -
	2552 Chandon Cir.	\$ 186.00	\$ (186.00)	\$ -
	2609 Lahontan Dr.	\$ 186.00	\$ (186.00)	\$ -
	2720 Sparks Way	\$ 186.00	\$ (186.00)	\$ -
	3017 Conant Ave.	\$ 186.00	\$ -	\$ 186.00
<b>Subtotal</b>		<b>\$ 6,596.49</b>	<b>\$ (5,185.52)</b>	<b>\$ 1,410.97</b>

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**Table 11, cont'd: Exemptions for Accessory Dwelling Units**

<b>Fund</b>	<b>Address</b>	<b>CFF Due</b>	<b>CFF Credit</b>	<b>CFF Paid</b>
Fund 3470	105 Lita Ct.	\$ 534.00	\$ (174.46)	\$ 359.54
General	125 Pine St.	\$ 327.00	\$ (327.00)	\$ -
Government	127 Madera Ave.	\$ 327.00	\$ (327.00)	\$ -
	214 James St.	\$ 327.00	\$ (327.00)	\$ -
	314 Alturas Ave.	\$ 327.00	\$ (327.00)	\$ -
	316 Burney St.	\$ 283.45	\$ (238.55)	\$ 44.90
	401K St.	\$ 327.00	\$ (327.00)	\$ -
	511Vine St.	\$ 327.00	\$ (327.00)	\$ -
	515 Ramona Ave.	\$ 327.00	\$ (327.00)	\$ -
	709 Conejo Ave	\$ 327.00	\$ -	\$ 327.00
	711 Empire Ave.	\$ 327.00	\$ (327.00)	\$ -
	916 Mandana Ct.	\$ 327.00	\$ (327.00)	\$ -
	918 Helms Ln	\$ -	\$ -	\$ -
	1014 Ulrich Ave.	\$ 327.00	\$ (327.00)	\$ -
	1020 Empire Ave.	\$ 320.00	\$ -	\$ 320.00
	1024 Hawthorne Ave.	\$ 327.00	\$ -	\$ 327.00
	1100 Springfield Way	\$ 327.00	\$ (327.00)	\$ -
	1101E Rumble Rd.	\$ 534.00	\$ (295.94)	\$ 238.06
	1341W Orangeburg Ave.	\$ 327.00	\$ (327.00)	\$ -
	1448 Water St.	\$ 327.00	\$ (327.00)	\$ -
	1510 Vernon Ave.	\$ 327.00	\$ -	\$ 327.00
	1516 Grape Ave.	\$ 327.00	\$ (327.00)	\$ -
	1560 Church Ln.	\$ -	\$ -	\$ -
	1601 Rouse Ave.	\$ 327.00	\$ (327.00)	\$ -
	1606 Bronson Ave.	\$ 327.00	\$ (327.00)	\$ -
	1928 Rouse Ave.	\$ 327.00	\$ (327.00)	\$ -
	2109 Aloha Way	\$ 327.00	\$ (327.00)	\$ -
	2112 Winslow Ct.	\$ 327.00	\$ (327.00)	\$ -
	2137 Eicher Ave.	\$ 327.00	\$ (327.00)	\$ -
	2206 Carol St.	\$ 327.00	\$ (327.00)	\$ -
	2525 Crommelin Ave.	\$ 327.00	\$ (327.00)	\$ -
	2552 Chandon Cir.	\$ 327.00	\$ (327.00)	\$ -
	2609 Lahontan Dr.	\$ 327.00	\$ (327.00)	\$ -
	2720 Sparks Way	\$ 327.00	\$ (327.00)	\$ -
	3017 Conant Ave.	\$ 327.00	\$ -	\$ 327.00
<b>Subtotal</b>		<b>\$ 11,154.45</b>	<b>\$ (8,883.95)</b>	<b>\$ 2,270.50</b>

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**Table 11, cont'd: Exemptions for Accessory Dwelling Units**

<b>Fund</b>	<b>Address</b>	<b>CFF Due</b>	<b>CFF Credit</b>	<b>CFF Paid</b>
Fund 3480	105 Lita Ct.	\$ 302.00	\$ (98.66)	\$ 203.34
Administration	125 Pine St.	\$ 164.00	\$ (164.00)	\$ -
	127 Madera Ave.	\$ 164.00	\$ (164.00)	\$ -
	214 James St.	\$ 164.00	\$ (164.00)	\$ -
	314 Alturas Ave.	\$ 164.00	\$ (164.00)	\$ -
	316 Burney St.	\$ 160.73	\$ (135.27)	\$ 25.46
	401K St.	\$ 164.00	\$ (164.00)	\$ -
	511Vine St.	\$ 164.00	\$ (164.00)	\$ -
	515 Ramona Ave.	\$ 164.00	\$ (164.00)	\$ -
	709 Conejo Ave	\$ 164.00	\$ -	\$ 164.00
	711 Empire Ave.	\$ 164.00	\$ (164.00)	\$ -
	916 Mandana Ct.	\$ 164.00	\$ (164.00)	\$ -
	918 Helms Ln	\$ 133.00	\$ (133.00)	\$ -
	1014 Ulrich Ave.	\$ 164.00	\$ (164.00)	\$ -
	1020 Empire Ave.	\$ 160.00	\$ -	\$ 160.00
	1024 Hawthorne Ave.	\$ 164.00	\$ -	\$ 164.00
	1100 Springfield Way	\$ 164.00	\$ (164.00)	\$ -
	1101E Rumble Rd.	\$ 302.00	\$ (167.38)	\$ 134.62
	1341W Orangeburg Ave.	\$ 164.00	\$ (164.00)	\$ -
	1448 Water St.	\$ 164.00	\$ (164.00)	\$ -
	1510 Vernon Ave.	\$ 164.00	\$ -	\$ 164.00
	1516 Grape Ave.	\$ 164.00	\$ (164.00)	\$ -
	1560 Church Ln.	\$ 133.00	\$ -	\$ 133.00
	1601Rouse Ave.	\$ 164.00	\$ (164.00)	\$ -
	1606 Bronson Ave.	\$ 164.00	\$ (164.00)	\$ -
	1928 Rouse Ave.	\$ 164.00	\$ (164.00)	\$ -
	2109 Aloha Way	\$ 164.00	\$ (164.00)	\$ -
	2112 Winslow Ct.	\$ 164.00	\$ (164.00)	\$ -
	2137 Eicher Ave.	\$ 164.00	\$ (164.00)	\$ -
	2206 Carol St.	\$ 164.00	\$ (164.00)	\$ -
	2525 Crommelin Ave.	\$ 164.00	\$ (164.00)	\$ -
	2552 Chandon Cir.	\$ 164.00	\$ (164.00)	\$ -
	2609 Lahontan Dr.	\$ 164.00	\$ (164.00)	\$ -
	2720 Sparks Way	\$ 164.00	\$ (164.00)	\$ -
	3017 Conant Ave.	\$ 164.00	\$ -	\$ 164.00
<b>Subtotal</b>		\$ 5,946.73	\$ (4,634.31)	\$ 1,312.42
<b>TOTAL</b>		\$ 362,260.70	\$ (290,555.39)	\$ 71,705.31

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2022-501**

**RESOLUTION ACCEPTING THE FISCAL YEAR 2021-22 ANNUAL REPORT  
OF FUNDS HELD FOR FUTURE IMPROVEMENTS AND MAKING FINDINGS  
RELATED TO EACH SECURITY ON FILE**

WHEREAS, California Government Code Sections 66000 and 66006 require that the City make certain information available to the public and findings relating to the necessity of collecting fees for new development; and

WHEREAS, the City is collecting impact fees as security for future improvements that will be needed as a condition of approval for new development; and

WHEREAS, \$2,500 in impact fees were paid by Fuentes Construction on March 8, 2001, as a condition of approval for Project #100782 located at 1024 Florence Avenue, Modesto, for future improvements including connection to the City sewer system and the installation of curb, gutter and sidewalk improvements; and

WHEREAS, \$29,393.72 in impact fees were collected from American Home Builders as a condition of approval for Project #100783 located at 3055 Floyd Avenue, Modesto, on June 20, 2005, for future improvements including the expansion of Beta Street to the north of the property; and

WHEREAS, \$27,165 in impact fees were collected from Best Modesto Partners on September 30, 2008, as a condition of approval for Project #100784 located at 3019 Floyd Avenue, Modesto, for future improvements including the construction of an on-site driveway and the reconstruction of the nearby bus turnout and off-site driveway; and

WHEREAS, it has been determined that full funding for the various improvements has not yet been received; and

WHEREAS, it has been determined by staff that the impact fees collected for all three projects should be retained until additional funding can be obtained; and

WHEREAS, a public hearing notice was posted in the Modesto Bee on December 2, 2022, and

WHEREAS, a public hearing at the City Council in the Tenth Street Place Chambers located at 1010 Tenth Street, Modesto, California was set for December 13, 2022, to enable the public to have the opportunity to comment on the impact fees collected.

NOW, THEREFORE, BE IT RESOLVED, by the Council of the City of Modesto that it hereby accepts the Fiscal Year 2021-22 Annual Report of Funds Held for Future Improvements and making findings related to each security on file. That the revenue anticipated for the full development of infrastructure improvements required for these projects have not been fully collected to complete the financing of said improvements. It is presently anticipated that there will be no regular sources of funding to develop the required improvements apart from impact fees collected from neighboring properties.

1. That the anticipated dates for the full collection of fees is unknown at this time as impact fees are based on development activity which is not controlled by the City.
2. That the funding for the future improvements to include connection to the City sewer system and the installation of curb, gutter and sidewalk improvements located at 1024 Florence Avenue, Modesto, is not yet known, but there is still a need; and therefore fees should still be retained for these purposes.

3. That the timing for the future improvements including the expansion of Beta Street to the north of the property located at 3055 Floyd Avenue, Modesto, is not yet known, but there is still a need; and therefore fees should still be retained for these purposes.
4. That the timing for the future improvements including the construction of an on-site driveway and the reconstruction of the nearby bus turnout and off-site driveway located at 3019 Floyd Avenue, Modesto, is not yet known, but there is still a need; and therefore fees should still be retained for these purposes.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 13th day of December, 2022, by Councilmember Williams, who moved its adoption, which motion being duly seconded by Mayor Zwahlen, was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmembers:	Alvarez, Bavaro, Escutia-Braaton, Ricci, Williams, Wright, Mayor Zwahlen
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

ATTEST:   
DIANE NAYARES-PEREZ, CMC,  
City Clerk

(SEAL)

APPROVED AS TO FORM:

BY:   
JOSE M. SANCHEZ, City Attorney