MODESTO CITY COUNCIL
RESOLUTION NO. 2007-256

A RESOLUTION AUTHORIZING CITY STAFF TO APPLY FOR VARIOUS WATER RELATED GRANTS, THROUGH THE 2007/08 AND 2008/09 FISCAL YEARS, AND AUTHORIZING THE CITY MANAGER TO EXECUTE APPLICATIONS RELATED TO SUCH GRANTS ON BEHALF OF THE CITY

WHEREAS, concurrent with this resolution, the Council adopted Resolution No. 2007-255, which adopted the City of Modesto’s Urban Water Management Plan (UWMP), which serves as a foundation document supporting future local and regional planning activities, and

WHEREAS, on June 28, 2005, by Resolution No. 2005-340, the City Council adopted the Integrated Regional Groundwater Management Plan (IRGMP), which identified integrated, regional groundwater related studies, and

WHEREAS, both the UWMP and the IRGMP identified multiple water-related studies that are eligible for state grant funding, and

WHEREAS, having an adopted UWMP ensures eligibility for various grants administered by the Department of Water Resources, from Proposition 50 and Proposition 84, and preference will be given to grant proposals that include integrated projects with multiple benefits,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby authorizes City Staff to apply for various water related grants.

BE IT FURTHER RESOLVED by the Council of the City of Modesto that the City Manager, or his designee, is hereby authorized and directed to execute the necessary applications for such grants.
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 24th day of April, 2007, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Marsh, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: None

APPROVED AS TO FORM:

By

SUSANA ALCALA WOOD, City Attorney

ATTEST: Jean Morris
JEAN MORRIS, City Clerk
MODESTO CITY COUNCIL
RESOLUTION NO. 2007- 257

A RESOLUTION APPROVING A WATER SUPPLY ASSESSMENT FOR THE PROPOSED PLASTIPAK, INC., WATER BOTTLING PROJECT (PROJECT). IT HAS BEEN DETERMINED THAT AN ASSURED, LONG-RANGE WATER SUPPLY FOR THE PROJECT CAN BE MADE ON THE CONDITIONS THAT:

(1) THE MODESTO REGIONAL WATER TREATMENT PLANT PHASE 2 EXPANSION PROJECT BECOMES OPERATIONAL, (2) SPECIFIC WATER MANAGEMENT MEASURES ARE IMPLEMENTED, (3) CERTAIN WATER SYSTEM IMPROVEMENTS ARE CONSTRUCTED, AND (4) FUTURE WATER SUPPLIES ARE SECURED - ALL PRIOR TO IMPLEMENTING BUILD-OUT DEVELOPMENT PLANS OF THE PROJECT

WHEREAS, Senate Bill 610 (SB 610) requires water suppliers to conduct a Water Supply Assessment (WSA) for projects meeting the legislative criteria to determine if a sufficient water supply is available to meet the demands of the proposed project, and requires the governing legislative body to approve and adopt such assessments, and

WHEREAS the proposed Plastipak Project (Project), located at 4324 Leckron Road, is within the City of Modesto’s water service area and it meets the criteria of requiring a WSA under SB 610 and SB 221, and

WHEREAS, Public Works staff completed a WSA for the Project, and has determined that an assured 20-year water supply for the build-out of the Project can be made on the conditions that conjunctive use water management measures are implemented as identified in the Urban Water Management Plan (UWMP) and the WSA, the Modesto Regional Water Treatment Plant (MRWTP) Phase 2 Expansion becomes operational, specific water management measures are implemented, certain water system improvements are construction and future water supplies are secured,
NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Water Supply Assessment dated April 24, 2007, for the proposed Plastipak Project is hereby approved and adopted, a copy of which is on file with the City Clerk.

BE IT FURTHER RESOLVED that pursuant to the California Water Code Section 10912, the Council hereby finds and determines that an assured water supply is available to meet the demands of the proposed Plastipak Project on conditions that (1) the Modesto Regional Water Treatment Plant Phase 2 Expansion project becomes operational, (2) specific water management measures are implemented, (3) certain water system improvements are constructed, and (4) future water supplies are secured - all prior to implementing build-out development plans of the Project, and that the WSA for the proposed Plastipak Project provides substantial evidence to support this determination.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 24th day of April 2007, by Councilmember Olsen, who moved its adoption, which motion being duly seconded by Councilmember Hawn, was upon roll call carried and the resolution adopted by the following vote:

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

ATTEST: Jean Morris
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By Susana Alcala Wood, City Attorney
RESOLUTION OF INTENTION
TO APPROVE AN AMENDMENT TO CONTRACT
BETWEEN THE
BOARD OF ADMINISTRATION
CALIFORNIA PUBLIC EMPLOYEES' RETIREMENT SYSTEM
AND THE
CITY COUNCIL
CITY OF MODESTO

WHEREAS, the Public Employees' Retirement Law permits the participation of public agencies and their employees in the Public Employees' Retirement System by the execution of a contract, and sets forth the procedure by which said public agencies may elect to subject themselves and their employees to amendments to said Law; and

WHEREAS, one of the steps in the procedures to amend this contract is the adoption by the governing body of the public agency of a resolution giving notice of its intention to approve an amendment to said contract, which resolution shall contain a summary of the change proposed in said contract; and

WHEREAS, the following is a statement of the proposed change:

To provide Section 21547.7 (Alternate Death Benefit for Local Fire Members Credited with 20 or More Years of Service) for local fire members.

NOW, THEREFORE, BE IT RESOLVED that the governing body of the above agency does hereby give notice of intention to approve an amendment to the contract between said public agency and the Board of Administration of the Public Employees' Retirement System, a copy of said amendment being attached hereto, as an "Exhibit" and by this reference made a part hereof.

By: ____________________________
    Presiding Officer - Jim Ridenour

Mayor ____________________________
Title ____________________________

April 24, 2007
Date adopted and approved
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 24th day of April, 2007, by Councilmember Keating, who moved its adoption, which motion being duly seconded by Councilmember Marsh, was upon roll call carried and the resolution adopted by the following vote:

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

Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

Attest:

JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By: SUSANA ALCALA WOOD, City Attorney
AMENDMENT TO CONTRACT
Between the
Board of Administration
California Public Employees' Retirement System
and the
City Council
City of Modesto


A. Paragraphs 1 through 13 are hereby stricken from said contract as executed effective July 2, 2002, and hereby replaced by the following paragraphs numbered 1 through 13 inclusive:

1. All words and terms used herein which are defined in the Public Employees' Retirement Law shall have the meaning as defined therein unless otherwise specifically provided. "Normal retirement age" shall mean age 55 for local miscellaneous members and age 50 for local safety members.
2. Public Agency shall participate in the Public Employees' Retirement System from and after August 1, 1946 making its employees as hereinafter provided, members of said System subject to all provisions of the Public Employees' Retirement Law except such as apply only on election of a contracting agency and are not provided for herein and to all amendments to said Law hereafter enacted except those, which by express provisions thereof, apply only on the election of a contracting agency.

3. Employees of Public Agency in the following classes shall become members of said Retirement System except such in each such class as are excluded by law or this agreement:
   a. Local Fire Fighters (herein referred to as local safety members);
   b. Local Police Officers (herein referred to as local safety members);
   c. Employees other than local safety members (herein referred to as local miscellaneous members).

4. In addition to the classes of employees excluded from membership by said Retirement Law, the following classes of employees shall not become members of said Retirement System:
   a. POLICE COURT EMPLOYEES; AND
   b. ALL HOURLY RATED OR HOURLY BASIS EMPLOYEES HIRED ON AND AFTER OCTOBER 1, 1962.

5. Assets heretofore accumulated with respect to members in the local retirement system have been transferred to the Public Employees' Retirement System and applied against the liability for prior service incurred thereunder. That portion of the assets so transferred which represent the accumulated contributions (plus interest thereof) required of the employees under said local system has been credited to the individual membership account of each such employee under the Public Employees' Retirement System.

6. The percentage of final compensation to be provided for each year of credited prior and current service for local miscellaneous members shall be determined in accordance with Section 21354 of said Retirement Law, subject to the reduction provided therein for service on and after January 1, 1956, the effective date of Social Security coverage, and prior to June 30, 1978, termination of Social Security, for members whose service has been included in Federal Social Security (2% at age 55 Full and Modified).
7. The percentage of final compensation to be provided for each year of credited prior and current service as a local safety member shall be determined in accordance with Section 21362.2 of said Retirement Law (3% at age 50 Full).

8. Public Agency elected and elects to be subject to the following optional provisions:


   b. Section 21222.2 (One-Time 5% Increase - 1971). Legislation repealed said Section effective January 1, 1980.

   c. Section 21319 (One-Time 15% Increase for Local Miscellaneous Members Who Retired or Died Prior to July 1, 1971). Legislation repealed said Section effective January 1, 2002.

   d. Section 21572 (Increased Level of 1959 Survivor Benefits) for local miscellaneous members only.

   e. Section 20042 (One-Year Final Compensation).

   f. Section 21427 (Improved Nonindustrial Disability Allowance) for local miscellaneous members only.

   g. Sections 21624, 21626 and 21628 (Post-Retirement Survivor Allowance) for local safety members and those local miscellaneous members entering membership on or prior to October 20, 1981.

   h. Section 21325 (One-Time 3% to 15% Increase For Local Miscellaneous Members and Local Safety Members Who Retired or Died Prior to January 1, 1974). Legislation repealed said Section effective January 1, 2002.

   i. Section 20475 (Different Level of Benefits). Sections 21624, 21626 and 21628 (Post-Retirement Survivor Allowance) are not applicable to local miscellaneous members entering membership for the first time in the miscellaneous classification after October 20, 1981.

   j. Section 21322 (One-Time 4% Increase For Local Miscellaneous Members and Local Safety Members Who Retired or Died Prior to January 1, 1981). Legislation repealed said Section effective January 1, 2002.
k. Section 21317 (One-Time 15% Increase for Certain Local Safety Members Who Retired for Service Retirement). Legislation repealed said Section effective January 1, 2002.

l. Section 21024 (Military Service Credit as Public Service).

m. Section 21574.5 (Indexed Level of 1959 Survivor Benefits) for local safety members only.

n. Section 21547.7 (Alternate Death Benefit for Local Fire Members Credited with 20 or More Years of Service).

9. Public Agency, in accordance with Government Code Section 20790, ceased to be an "employer" for purposes of Section 20834 effective on March 28, 1978. Accumulated contributions of Public Agency shall be fixed and determined as provided in Government Code Section 20834, and accumulated contributions thereafter shall be held by the Board as provided in Government Code Section 20834.

10. Public Agency shall contribute to said Retirement System the contributions determined by actuarial valuations of prior and future service liability with respect to local miscellaneous members and local safety members of said Retirement System.

11. Public Agency shall also contribute to said Retirement System as follows:

a. Contributions required per covered member on account of the 1959 Survivor Benefits provided under Section 21574.5 of said Retirement Law. (Subject to annual change.) In addition, all assets and liabilities of Public Agency and its employees shall be pooled in a single account, based on term insurance rates, for survivors of all local safety members.

b. A reasonable amount, as fixed by the Board, payable in one installment within 60 days of date of contract to cover the costs of administering said System as it affects the employees of Public Agency, not including the costs of special valuations or of the periodic investigation and valuations required by law.

c. A reasonable amount, as fixed by the Board, payable in one installment as the occasions arise, to cover the costs of special valuations on account of employees of Public Agency, and costs of the periodic investigation and valuations required by law.

12. Contributions required of Public Agency and its employees shall be subject to adjustment by Board on account of amendments to the Public Employees' Retirement Law, and on account of the experience under the Retirement System as determined by the periodic investigation and valuation required by said Retirement Law.
13. Contributions required of Public Agency and its employees shall be paid by Public Agency to the Retirement System within fifteen days after the end of the period to which said contributions refer or as may be prescribed by Board regulation. If more or less than the correct amount of contributions is paid for any period, proper adjustment shall be made in connection with subsequent remittances. Adjustments on account of errors in contributions required of any employee may be made by direct payments between the employee and the Board.

B. This amendment shall be effective on the _____ day of ________________, ______.

BOARD OF ADMINISTRATION
PUBLIC EMPLOYEES' RETIREMENT SYSTEM

BY _______________________________________
LORI MCGARTLAND, CHIEF
EMPLOYER SERVICES DIVISION
PUBLIC EMPLOYEES' RETIREMENT SYSTEM

CITY COUNCIL
CITY OF MODESTO

BY _______________________________________
PRESIDING OFFICER

Witness Date
Attest:

__________________________
Clerk
A RESOLUTION APPROVING A PROFESSIONAL SERVICES CONTRACT WITH MANAGEMENT PARTNERS, INC. FOR FACILITATION OF A ONE-DAY WORKSHOP AND ADDITIONAL CONSULTATIVE SERVICES IN AN AMOUNT NOT TO EXCEED $24,900 AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE CONTRACT.

WHEREAS, on July 11, 2006, the City Council approved a contract with Management Partners, Inc. to conduct an Organizational Health Assessment, and

WHEREAS, an objective coming out of the Organizational Health Assessment was to conduct a workshop with the City Council to establish goals for the next one to three years, and

WHEREAS, Management Partners, Inc. is uniquely able to provide this service given their recent completion of the Organizational Health Assessment and has provided the City with a cost proposal of $24,900 which will also include additional consultative services,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves a professional services contract with Management Partners, Inc. for facilitation of a one-day workshop and additional consultative services in an amount not to exceed $24,900.

BE IT FURTHER RESOLVED that the Council hereby authorizes the City Manager, or his designee, to execute said contract.
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 1st day of May, 2007, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember O’Bryant, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: None

APPROVED AS TO FORM:

BY: SUSANA ALCALA-WOOD, City Attorney

ATTEST: JEAN MORRIS, City Clerk
MODESTO CITY COUNCIL  
RESOLUTION NO. 2007-260  

A RESOLUTION AMENDING THE FISCAL YEAR 06-07 OPERATING BUDGET TO APPROPRIATE $24,900 FROM THE GENERAL FUND RESERVE 0100-800-8000-8003 TO PROFESSIONAL SERVICES ACCOUNT 0100-020-0201-0235 TO FULLY FUND THE PROFESSIONAL SERVICES CONTRACT WITH MANAGEMENT PARTNERS, INC.  

WHEREAS, on May 1, 2007, by Resolution No. 2007-260, the City Council approved a contract with Management Partners, Inc., for facilitation of a one-day workshop with City Council, Charter Officers, Senior Executive Team, and additional consultative services in an amount not to exceed $24,900, and  

WHEREAS, transfer of funds from the General Fund Reserves is necessary to fully fund the contract,  

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the fiscal year 2006-07 Operating Budget is hereby amended to appropriate $24,900 from 0100-800-8000-8003 General Fund Reserve to the 0100-020-0201-0235, Professional Services account in the City Manager’s Office.  

BE IT FURTHER RESOLVED that the Finance Director is hereby authorized to implement the provisions of this resolution.
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 1st day of May, 2007, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember O’Bryant, was upon roll call carried and the resolution adopted by the following vote:

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

Attest: Jean Morris
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By: Susana Alcala Wood, City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2007-261

A RESOLUTION SUPPORTING A PROPOSAL FROM THE COMMUNITY QUALITIES FORUM TO CALL FOR AN EDUCATIONAL CONFERENCE AND PROVIDE A LOCATION FOR THE CONFERENCE.

WHEREAS, the Community Qualities Forum members believe that people who attend California State University, Stanislaus and Modesto Junior College want to stay in this area, and

WHEREAS, due to the significant number of jobs coming into Modesto and an undereducated population, the Community Qualities Forum is requesting that the City of Modesto put together a conference that will link the efforts of various public agencies in preparing our youth academically for employment in positions in these companies, and

WHEREAS, the conference would discuss what the groups are doing, how they are doing it, what improvements they can make in their approaches, and how they can effectively work together to address the problem, and

WHEREAS, this conference would lead to a better understanding of a major problem facing Modesto and lead to these disparate groups working together to address the issue of an undereducated workforce, and

WHEREAS, the Community Qualities Forum recommends inviting to the conference representatives of the following local groups that are independently dealing with the subject of undereducated local youth to promote working together to foster increased education among the undereducated in the Modesto area: Hispanic Leadership Council; Airport Neighbors United; Hispanic Chamber of Commerce; Parents Institute;
WHEREAS, for the purpose of working together to investigate educational levels of the local work force, the Community Qualities Forum proposes that the City of Modesto call for an educational conference and provide a location for the conference, and

WHEREAS, the Safety and Communities Committee met on February 5, 2007, and supported the recommendation,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Council hereby supports a proposal from the Community Qualities Forum for the City of Modesto to call for an educational conference and provide a location for the conference.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 1st day of May, 2007, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember O’Bryant, was upon roll call carried and the resolution adopted by the following vote:

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

Attest: Jean Morris, City Clerk

APPROVED AS TO FORM:

By: Susana Alcala Wood, City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2007-262

A RESOLUTION APPROVING A REQUEST FROM THE HISPANIC CHAMBER OF COMMERCE FOR USE OF AMPLIFIED MUSIC AT MANCINI BOWL FOR A CINCO DE MAYO EVENT, TO BE HELD ON MAY 6, 2007, FROM 11:00 A.M. TO 6:00 P.M.

WHEREAS, staff from the Parks, Recreation and Neighborhoods Department has received a request from the Hispanic Chamber of Commerce, requesting use of amplified music at Mancini Bowl for a Cinco de Mayo event, to be held on May 6, 2007, from 11:00 a.m. to 6:00 p.m., and

WHEREAS, City Council Policy No. 6-007 prohibits the use of amplified music in public without City Council approval,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Council hereby approves a request from the Hispanic Chamber of Commerce, requesting use of amplified music at Mancini Bowl for a Cinco de Mayo event, to be held on May 6, 2007, from 11:00 a.m. to 6:00 p.m.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 1st day of May, 2007, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember O’Bryant was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: None

Attest: Jean Morris, City Clerk

APPROVED AS TO FORM:

By: SUSANA ALCALA WOOD, City Attorney
A RESOLUTION REVISING THE POSITION CLASSIFICATION PLAN FOR THE CITY OF MODESTO.

WHEREAS, a Position Classification Plan for the City of Modesto was adopted by Modesto City Council Resolution No. 88-338 pursuant to Rule 2 of the Personnel Rules and Regulations of the City of Modesto, and

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

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

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

SECTION I. CLASSIFICATION CREATED. The Position Classification Plan of the City of Modesto is hereby amended to create the following classification:

Exhibits Coordinator

The job specification for this classification is being created to design, coordinate, and install exhibits at the McHenry Mansion and McHenry Museum. The job specification for the classification of Exhibits Coordinator, as shown on the attached Exhibit “A,” which is hereby made a part of this resolution by reference, is hereby approved and made part of the Position Classification Plan of the City of Modesto.

SECTION 2. EFFECTIVE DATE. This resolution shall become effective on and after May 1, 2007.
The foregoing resolution was introduced in a regular meeting of the Council of the City of Modesto held on the 1st day of May, 2007, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember O’Bryant, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: 

(Seal)

APPROVED AS TO FORM:

By: 

SUSANA ALCALA WOOD, City Attorney
EXHIBITS COORDINATOR

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

DEFINITION

Under general supervision, to design, coordinate, install and maintain exhibits at the McHenry Museum and McHenry Mansion.

SUPERVISION RECEIVED AND EXERCISED

Receives direction from the Cultural Services Manager.

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

**Essential Functions:**

Plan, design, and install both temporary and permanent exhibits at the museum and mansion.

Coordinate the installation of objects lent by individuals or institutions.

Schedule temporary exhibits, including coordinating delivery, to ensure exhibits are displayed in a timely manner.

Prepare signs and labels as required; cut and assemble matting for prints, drawings, and photographs; create graphics.

Perform maintenance duties to keep exhibits and displays clean, properly labeled and presentable for display.

Maintain close contact with traveling exhibit sources regarding the coordination of exhibits.

Perform minor repairs to artifacts.

Paint, patch and repair walls where exhibits are hung.

Maintain condition reports when traveling exhibits are brought in.

Track expenditures and provide input for exhibit needs.

Exhibit “A”
Marginal Functions:
Perform other related duties as assigned.

QUALIFICATIONS:

Knowledge of:

Principles, techniques, equipment and supplies used in developing museum exhibits.

Historic house displays used in museum.

Matting and framing techniques.

Museum purposes, organization and procedures.

Packing and storage techniques for art or history objects.

Personal computers including related graphics and software.

Recreational, social and cultural needs of the community.

Ability to:

Design and install attractive exhibits and displays.

Communicate in a clear and concise manner both verbally and in writing.

Create illustrative materials.

Handle delicate and valuable works of art or historical artifacts with extreme care.

Use a variety of equipment used in the creation of displays including hand and power tools.

Think clearly, quickly and accurately in emergencies.

Identify and analyze potential problems, situations and needs; carry out solutions.

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

Exhibit "A"
Ability to: (Continued)

Design and prepare a variety of written information materials including brochures and invitations.

Perform minimal manual labor including lifting and carrying up to 25 lbs.

Monitor exhibits to ensure compliance with related regulations, policies and procedures.

Experience and Training Guidelines:

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

Experience:

Working in a history museum, historic house museum, or art gallery designing art of historical exhibits.

Training:

Equivalent to an Associate of Arts degree with an emphasis in graphic design, fine arts, and museum studies or a related field.

License or Certificates:

Possession of or the ability to obtain a valid Class C California Drivers License.

WORKING CONDITIONS:

Environmental Conditions:

Office and facility environment; may travel from site to site.

Physical Conditions:

Essential and marginal functions may require maintaining physical conditions necessary for sitting, walking, standing, bending, lifting and using ladders and other equipment to install exhibits for prolonged periods of time; operation of a personal computer and other related office equipment.
MODESTO CITY COUNCIL
RESOLUTION NO. 2007-264

A RESOLUTION AMENDING EXHIBIT "A" OF RESOLUTION NO. 2006-319 TO REVISE THE CLASS RANGE TABLE FOR GENERAL NON-SWORN CLASSES TO ESTABLISH THE SALARY RANGE FOR EXHIBITS COORDINATOR AT SALARY RANGE 107.

WHEREAS, the City Council desires to amend Exhibit "A" of Resolution No. 2006-319, which approved the Class Range Table for General Non-Sworn Classes,

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

SECTION 1. AMENDMENT TO RESOLUTION NO. 2006-319. Exhibit "A" entitled, "City of Modesto Class Range Table General Non-Sworn Classes Effective May 23, 2006," attached to Resolution No. 2006-319, is hereby amended as shown on the amended Exhibit "A" entitled, "City of Modesto Class Range Table General Non-Sworn Classes Effective May 1, 2007," which is attached hereto and made a part hereof as though set forth in full herein. Said amended Exhibit "A" establishes the salary range for Exhibits Coordinator at range 107.

SECTION 2. EFFECTIVE DATE. This resolution shall become effective on and after May 1, 2007.
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on 1st day of May, 2007, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember O'Bryant, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST:  Jean Morris
JEAN MORRIS, City Clerk

(SEAL)

APPROVED AS TO FORM:

By:  Susana Alcala Wood, City Attorney
## CITY OF MODESTO
CLASS RANGE TABLE
GENERAL NON-SWORN CLASSES
Effective May 1, 2007

<table>
<thead>
<tr>
<th>RANGE</th>
<th>TITLE</th>
</tr>
</thead>
<tbody>
<tr>
<td>101</td>
<td>Custodian I</td>
</tr>
<tr>
<td>103</td>
<td>Administrative Office Assistant I</td>
</tr>
<tr>
<td>104</td>
<td></td>
</tr>
<tr>
<td>105</td>
<td></td>
</tr>
<tr>
<td>106</td>
<td></td>
</tr>
</tbody>
</table>
| 107   | Administrative Office Assistant II  
Custodian II  
Exhibits Coordinator  
Police Clerk I |
| 108   | |
| 109   | Customer Services Account Clerk I |
| 110   | Security Officer  
Maintenance Worker I |
| 111   | Account Clerk  
Administrative Office Assistant III  
Customer Services Account Clerk II  
Police Clerk II |
| 112   | |
| 113   | Administrative Technician  
Computer Operator  
Drafting and Graphics Technician |
| 114   | Animal Control Officer I  
Electrical Technician I  
Equipment Service Technician  
Evidence and Property Specialist  
Maintenance Worker II  
Production Technician  
Storeskeeper |

Exhibit "A"
<table>
<thead>
<tr>
<th>RANGE</th>
<th>TITLE</th>
</tr>
</thead>
</table>
| 115   | Accounting Technician  
        Administrative Services Technician I  
        Code Enforcement Officer I  
        Community Service Officer I  
        Customer Services Account Clerk III  
        Senior Administrative Office Assistant  
        Wastewater Treatment Plant Attendant |
| 116   | Equipment Operator  
        Fire Prevention Technician I  
        Motor Sweeper Operator  
        Traffic Operations Technician  
        Used Oil Coordinator  
        Wastewater Collection System Operator  
        Water Distribution System Operator |
| 117   | Electrical Technician II |
| 118   | Customer Services Accounting Technician  
        Fleet Procurement Specialist  
        Parking Lot Maintenance Crewleader  
        Parks Crewleader  
        Recreation Coordinator  
        Senior Storeskeeper  
        Tree Trimmer |
| 119   | Administrative Services Technician II  
        Animal Control Officer II  
        Assistant Buyer  
        Building Maintenance Mechanic  
        Civil Engineering Technician I  
        Code Enforcement Officer II  
        Community Service Officer II  
        Maintenance Mechanic – Parks  
        Maintenance Mechanic – Pumps  
        Public Information Technician  
        Wastewater Treatment Plant Operator |
City of Modesto  
Class Range Table – General Non-Sworn Classes  
Page 3

<table>
<thead>
<tr>
<th>RANGE</th>
<th>TITLE</th>
</tr>
</thead>
</table>
| 120   | Accountant I  
Assistant Electrician  
Equipment Mechanic  
Fire Prevention Technician II  
Laboratory Analyst I  
Senior Equipment Operator  
Traffic Painter Crewleader  
Water Resource Specialist I  
Welder/Fabricator |
| 121   | Wastewater Treatment Plant Relief Operator |
| 122   | Heavy Equipment Mechanic  
Cross Connection Specialist  
Fire Equipment Mechanic  
Law Enforcement Academy Recruit  
Tree Trimmer Crewleader  
Water Conservation Specialist |
| 123   | Airport Maintenance Crewleader  
Civil Engineering Technician II  
Identification Technician I  
Maintenance Mechanic Crewleader – Parks |
| 124   | Community Development Program Specialist I  
Environmental Compliance Inspector I  
Equipment Mechanic Crewleader  
Laboratory Analyst II  
Operation and Maintenance Crewleader  
Planning Assistant  
Plant Mechanic  
Water Resource Specialist II |
| 125   | Crime Analyst |
| 126   | Building Inspector I  
Heavy Equipment Mechanic Crewleader  
Housing Financial Specialist  
Housing Rehabilitation Specialist I |

Exhibit “A”
<table>
<thead>
<tr>
<th>RANGE</th>
<th>TITLE</th>
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| 127   | Civil Engineering Assistant  
        Identification Technician II  
        Senior Fire Equipment Mechanic |
| 128   | Community Development Program Specialist II  
        Electrician  
        Environmental Compliance Inspector II  
        Instrument Repair Technician  
        Senior Wastewater Treatment Plant Operator |
| 129   | Building Inspector II  
        Construction Inspector  
        Housing Rehabilitation Specialist II  
        Laboratory Analyst III  
        Project Coordinator |
| 130   | Senior Civil Engineering Assistant |
| 131   | Environmental Review Specialist  
        Senior Environmental Compliance Inspector |
| 132   | Deputy Fire Marshal  
        Plan Review Engineer  
        Senior Building Inspector  
        Senior Construction Inspector |

Exhibit “A”
MODESTO CITY COUNCIL
RESOLUTION NO. 2007-265

A RESOLUTION APPROVING A CONSULTANT AGREEMENT WITH RMC WATER AND ENVIRONMENT, INC., IN THE NOT-TO-EXCEED AMOUNT OF $447,250.00, FOR PROGRAM MANAGEMENT SERVICES OF THE PHASES 1A AND 1B TERTIARY WASTEWATER TREATMENT FACILITY PROJECT, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE AGREEMENT

WHEREAS, on February 13, 2007, by Resolution No. 2007-110, City Council approved an Agreement with Carollo Engineers to prepare a 35% project design and a Preliminary Design Report (PDR) for Phases 1A and 1B Tertiary Wastewater Treatment Facility (Project) in an amount not to exceed $1,113,700, and

WHEREAS, due to the current staffing levels a program management company is being tasked with the program management of the Project, and

WHEREAS, the selection process for program management services followed the City’s selection procedures for professional consultants, and

WHEREAS, in accordance with Administrative Directive 3.1, Capital Improvement Services (CIS) staff mailed approximately 80 Request for Qualifications for program management services, and

WHEREAS, two specialized consulting firms of program management services responded and were asked to provide a proposal, and

WHEREAS, the City’s Selection Committee reviewed the proposals submitted and held interviews with the two firms, and

WHEREAS, the firm of RMC Water and Environment was considered to be the most qualified to provide program management services for the Project, and

WHEREAS, Capital Improvement Services staff recommends that an Agreement with the consulting firm of RMC Water and Environment, Inc., be approved to perform the program management services as current workload levels do not provide for timely
in-house solutions/responses, and

WHEREAS, City desires to enter into an Agreement with RMC Water and Environment, Inc., in an amount not-to-exceed $447,250 to perform program management services of the Phases 1A and 1B Tertiary Wastewater Treatment Facility project, and

WHEREAS, RMC Water and Environment, Inc., will be paid on a time and materials basis for actual hours required performing individual tasks at a set rate,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the Agreement for Program Management Services with RMC Water and Environment, Inc., in an amount not-to-exceed $447,250, for program management services of the Phases 1A and 1B Tertiary Wastewater Treatment Facility project.

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 1st day of May, 2007, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember O’Bryant, was upon roll call carried and the resolution adopted by the following vote:

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

ATTEST: JEAN MORRIS, City Clerk

APPROVED AS TO FORM:
By SUSANA ALCALA WOOD, City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2007-266

A RESOLUTION APPROVING A CONSULTANT AGREEMENT WITH RMC WATER AND ENVIRONMENT, INC., IN THE NOT-TO-EXCEED AMOUNT OF $113,520.00, FOR PROGRAM MANAGEMENT SERVICES OF THE EMERALD TRUNK REHABILITATION PROJECT, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE AGREEMENT

WHEREAS, the City is in the process of selecting a Design Consultant to prepare a 35% project design and a Preliminary Design Report (PDR) of the Emerald Trunk Rehabilitation Project (Project) which is scheduled to be before Council for approval in May 2007, and

WHEREAS, due to the current staffing levels, a program management company is being tasked with the program management of the Project, and

WHEREAS, the selection process for program management services followed the City’s selection procedures for professional consultants, and

WHEREAS, in accordance with Administrative Directive 3.1, Capital Improvement Services (CIS) staff mailed approximately 80 Request for Qualifications for program management services, and

WHEREAS, two specialized consulting firms of program management services responded and were asked to provide a proposal, and

WHEREAS, the City’s Selection Committee reviewed the proposals submitted and held interviews with the two firms, and

WHEREAS, the firm of RMC Water and Environment was considered to be the most qualified to provide program management services for the Project, and

WHEREAS, Capital Improvement Services staff recommends that an Agreement with the consulting firm of RMC Water and Environment, Inc., be approved to perform the program management services as current workload levels do not provide for timely
in-house solutions/responses, and

WHEREAS, City desires to enter into an Agreement with RMC Water and Environment, Inc., in an amount not-to-exceed $113,520 to perform program management services of the Emerald Trunk Rehabilitation project, and

WHEREAS, RMC Water and Environment, Inc., will be paid on a time and materials basis for actual hours required performing individual tasks at a set rate,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the Agreement for Program Management Services with RMC Water and Environment, Inc., in an amount not-to-exceed $113,520, for program management services of the Emerald Trunk Rehabilitation project.

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 1st day of May, 2007, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember O’Bryant, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Morris, City Clerk

APPROVED AS TO FORM:

By

SUSANA ALCALA WOOD, City Attorney
A RESOLUTION APPROVING A CONSULTANT AGREEMENT WITH RMC WATER AND ENVIRONMENT, INC., IN THE NOT-TO-EXCEED AMOUNT OF $124,380.00, FOR PROGRAM MANAGEMENT SERVICES OF THE PARALLEL OUTFALL REHABILITATION PROJECT, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE AGREEMENT

WHEREAS, the City is in the process of selecting a Design Consultant to prepare a 35% project design and a Preliminary Design Report (PDR) of the Parallel Outfall Rehabilitation Project (Project) which is scheduled to be before Council for approval in May 2007, and

WHEREAS, due to the current staffing levels, a program management company is being tasked with the program management of the Project, and

WHEREAS, the selection process for program management services followed the City’s selection procedures for professional consultants, and

WHEREAS, in accordance with Administrative Directive 3.1, Capital Improvement Services (CIS) staff mailed approximately 80 Request for Qualifications for program management services, and

WHEREAS, two specialized consulting firms of program management services responded and were asked to provide a proposal, and

WHEREAS, the City’s Selection Committee reviewed the proposals submitted and held interviews with the two firms, and

WHEREAS, the firm of RMC Water and Environment, Inc., was considered to be the most qualified to provide program management services for the Project, and

WHEREAS, Capital Improvement Services staff recommends that an Agreement with the consulting firm of RMC Water and Environment, Inc., be approved to perform the program management services as current workload levels do not provide for timely
WHEREAS, City desires to enter into an Agreement with RMC Water and Environment, Inc., in an amount not-to-exceed $124,380 to perform program management services of the Parallel Outfall Rehabilitation project, and

WHEREAS, RMC Water and Environment, Inc., will be paid on a time and materials basis for actual hours required performing individual tasks at a set rate,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the Agreement for Program Management Services with RMC Water and Environment, Inc., in an amount not-to-exceed $124,380, for program management services of the Parallel Outfall Rehabilitation project.

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 1st day of May, 2007, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember O'Bryant, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Morris, City Clerk

APPROVED AS TO FORM:

By  SUSANA ALCALA WOOD, City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2007-268

A RESOLUTION APPROVING A WATER SUPPLY ASSESSMENT, PREPARED BY WEST-YOST & ASSOCIATES, FOR THE KIERNAN BUSINESS PARK ‘EAST’ AND KIERNAN BUSINESS PARK ‘SOUTH’ PROJECTS (PROJECTS). IT HAS BEEN DETERMINED THAT AN ASSURED, LONG-RANGE WATER SUPPLY FOR THE PROJECTS CAN BE MADE ON THE CONDITIONS THAT: (1) THE MODESTO REGIONAL WATER TREATMENT PLANT PHASE 2 EXPANSION PROJECT BECOMES OPERATIONAL, (2) SPECIFIC WATER MANAGEMENT MEASURES ARE IMPLEMENTED, AND (3) CERTAIN WATER SYSTEM IMPROVEMENTS ARE CONSTRUCTED - ALL PRIOR TO ACTUAL DEVELOPMENT OF THE PROJECTS

WHEREAS, Senate Bill 610 (SB 610) requires water suppliers to conduct Water Supply Assessment (WSA) studies for projects meeting the legislative criteria to determine if a sufficient water supply is available to meet the demands of the proposed Projects, and requires the governing legislative body to approve and adopt such assessments, and

WHEREAS the proposed Projects, located within the Kiernan – Carver Comprehensive Planning District (CPD) bordered by Pelandale Avenue on the south, Dale Road on the west, American Avenue on the east, and Kieran Avenue/SR 219 to the north, is within the City of Modesto’s water service area and it meets the criteria of requiring a WSA under SB 610 and SB 221, and

WHEREAS, West Yost Associates has completed a WSA for the Projects, and Public Works staff has determined that an assured 20-year water supply for the build-out of the Projects can be made on the conditions that conjunctive use water management measures are implemented as identified in the Urban Water Management Plan and the WSA, the Modesto Regional Water Treatment Plant Phase 2 Expansion is constructed and future water supplies are secured,
NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Water Supply Assessment dated April 2007, for the proposed Kiernan Business Park ‘East’ and Kiernan Business Park ‘South’ projects is hereby approved and adopted, a copy of which is on file with the City Clerk.

BE IT FURTHER RESOLVED that pursuant to the California Water Code Section 10912, the Council hereby finds and determines that an assured water supply is available to meet the demands of the proposed Kiernan Business Park ‘East’ and Kiernan Business Park ‘South’ projects and that the WSA for the proposed Kiernan Business Park ‘East’ and Kiernan Business Park ‘South’ projects provides substantial evidence to support this determination.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 1st day of May 2007, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember O’Bryant, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Dunbar, Hawn, Keating, Marsh, O’Bryant, Olsen, Mayor Ridenou

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Morris, City Clerk

APPROVED AS TO FORM:

By SUSANA ALCALA WOOD, City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2007-269

A RESOLUTION APPROVING A STANDARD AGREEMENT FOR CONSULTANT SERVICES WITH ECONOMIC AND PLANNING SYSTEMS, INC. FOR THE FIVE YEAR UPDATE OF THE CAPITAL FACILITIES FEES PROGRAM IN AN AMOUNT NOT TO EXCEED $60,000, AND AUTHORIZING THE CITY MANAGER OR HIS DESIGNEE TO EXECUTE THE AGREEMENT

WHEREAS, the City Council of the City of Modesto adopted Modesto Municipal Code 8-1.904 et seq. creating and establishing the authority for imposing and charging Capital Facilities Fees ("CFF"), and

WHEREAS, pursuant to the Capital Facilities Fees Policies and Procedures, the City is required to update its CFF Program every five years, and

WHEREAS, the City last adopted a comprehensive update of the CFF program on June 24, 2003, and

WHEREAS, a Request for Proposals for the five year update of the CFF program was issued and six proposals were received, and

WHEREAS, staff from the City Manager’s Office, Fire, Public Works, and Parks Recreation and Neighborhoods Departments, interviewed four firms, and

WHEREAS, Economic and Planning Systems, Inc. ("Consultant") was selected to prepare the five year update of the CFF Program, and,

WHEREAS, Consultant represents that it is qualified, willing and able to provide said services and prepare such document(s), and

WHEREAS, City staff desires to enter into a Standard Agreement for Consultant Services ("Agreement") with Economic and Planning Services Inc. for the five year update to its CFF program to
1) ensure all facilities within the CFF Program are appropriate for build out within the City’s Sphere of Influence,

2) review cost estimates to ensure adequate fees are collected from new development to pay for new development impact on the identified facilities,

3) determine and address any deficiencies within the CFF Program since the last update, and

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the Standard Agreement for Consultant Services between the City of Modesto and Economic and Planning Services, Inc. in an amount not to exceed $60,000 for the Five Year Update of the City’s Capital Facilities Fee Program.

BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to execute the Agreement.
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 8th day of May, 2007, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Keating, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: Olsen

APPROVED AS TO FORM:

By: SUSANA ALCALA WOOD, City Attorney

ATTEST: JEAN MORRIS, City Clerk
MODesto CITY CoUNCIL
RESOLUTION NO. 2007-270

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MODESTO OF INTENTION TO ESTABLISH CITY OF MODESTO COMMUNITY FACILITIES DISTRICT NO. 2007-1 (NORTH BEYER PARK #2) AND AUTHORIZE THE LEVY OF SPECIAL TAXES THEREIN

WHEREAS, an owner of not less than 10 percent of the area of land proposed to be included within the community facilities district herein described has filed with the City Clerk of this City (the “City”) a petition requesting that this Council (the “Council”) form a community facilities district pursuant to Chapter 2.5 of Part 1 of Division 2 of Title 5 (commencing with Section 53311) of the California Government Code, commonly known as the “Mello-Roos Community Facilities Act of 1982” (the “Act”) in order to: (i) finance certain public facilities having a useful life of 5 years or longer (the “Facilities”), including expenses incidental thereto; and (ii) finance certain services (the “Services”) more particularly described in Exhibit B; and

WHEREAS, upon receipt of the petition, this Council is, pursuant to Section 53320 of the California Government Code, required to adopt a resolution of intention to establish the community facilities district; and

WHEREAS, this Council has adopted local goals and policies concerning the use of the Act;

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

SECTION 1. The above recitals are true and correct.

SECTION 2. A community facilities district is proposed to be established under the terms of the Act. The name proposed for the community facilities district is “City of Modesto Community Facilities District No. 2007-1 (North Beyer Park #2)” and is referred to in this Resolution as the “District.”
SECTION 3. The boundaries of the District are shown on a map, hereby approved, entitled “Proposed Boundaries of City of Modesto Community Facilities District No. 2007-1 (North Beyer Park #2) of the City of Modesto, County of Stanislaus, State of California,” a copy of which is on file in the office of the City Clerk. Pursuant to Sections 3110 and 3111 of the California Streets and Highways Code, the City Clerk shall certify on the original and one copy of the map evidencing the date and adoption of this Resolution, file the original in the City Clerk’s office and, within 15 days after the adoption of this Resolution and in no event later than 15 days prior to the date of the public hearing referred to in Section 8, file a copy of the map with the County Recorder of the County of Stanislaus.

The Council finds that no land proposed to be included in the District is devoted primarily to agricultural, timber, or livestock uses and being used for the commercial production of agricultural, timber or livestock products.

SECTION 4. The Facilities proposed to be provided by the District are public facilities authorized to be acquired or constructed under the Act that have a useful life of five (5) years or longer. The Facilities are governmental facilities which the Council is authorized by law to contribute revenue to, or construct, own or operate; or which a local public agency is authorized by law to provide. The Council further determines that such Facilities are necessary to meet increased demands placed upon the City and other local agencies as a result of development occurring within the boundaries of the District.

The Facilities are proposed to include any and all incidental expenses related thereto, as authorized by the Act, including the payment in full of all amounts necessary to eliminate any fixed special assessment liens or to pay, repay, or defease any obligation to pay or any indebtedness secured by any tax, fee, charge, or assessment levied within the area of the District or to pay debt service on that indebtedness.
The Services proposed to be provided by the District are in addition to those provided in the District before its creation, since none of the Services have been or will be provided in the District before its creation.

SECTION 5. The Council determines that the public interest will not be served by allowing the owner(s) of property within the proposed District to enter into a contract pursuant to Section #53329.5(a) of the Act.

SECTION 6. (a) It is the intention of the Council that, except where funds are otherwise available to pay for the Facilities to be financed by the District, the incidental expenses related thereto, and the Services, special taxes sufficient to pay the costs thereof, secured by recordation of a continuing lien against all nonexempt real property in the District, will be levied annually within the boundaries of the District. The rate, method of apportionment and manner of collection of the proposed special taxes is set forth in Exhibit A. Exhibit A provides sufficient detail to allow each landowner or resident within the District to estimate the maximum amount that such person will have to pay for the Facilities and the Services.

(b) In the case of the special tax to pay for the Facilities that is to be levied against any parcel of land used for private residential purposes (as defined and provided in the Act), (1) the maximum special tax has been specified as a dollar amount which will be calculated and thereby established not later than the date of which any such parcel of land is first subject to the special tax because of its use for private residential purposes, and which amount will not be increased over time by an amount exceeding two per cent (2%) per year, (2) after Fiscal Year 2037-2038, the special tax will no longer be levied or collected against any such parcel of land, and (3) under no circumstances will the special tax be increased as a consequence of delinquency or default by the owner of any other parcel or parcels of land within the District by more than ten per cent (10%). The special tax to pay for the Facilities may, however, establish different tax rates for different categories of residential property, and may provide for a change in the dollar
amount of the special tax for the parcel if the size of the residence is increased or if the size or use of the parcel is changed.

(c) The obligation to pay the special tax to pay for the Facilities may be prepaid and permanently satisfied, and the lien of the special tax to pay for the Facilities discharged pursuant to the procedures set forth in Exhibit A.

(d) If the special tax to pay for the Facilities is prepaid and permanently satisfied as to a particular parcel of land, this Council shall cause to be prepared and recorded in the office of the County Recorder of the County of Stanislaus, which shall accept for recordation, a Notice of Cancellation of Special Tax Lien as to that parcel. The Notice of Cancellation of Special Tax Lien shall identify with particularity the special tax to pay for the Facilities which has been prepaid and permanently satisfied, state the book and page number in the records of the County Recorder where the Notice of Special Tax Lien being cancelled is recorded, contain the legal description and assessor's parcel number of the particular parcel of land subject to the lien, and contain the name of the owner of record of the parcel. The County Recorder shall mail the original Notice of Cancellation of Special Tax Lien to the owner of the property after recording the document. This Council may specify a charge for the preparation and recordation of the Notice.

SECTION 7. Pursuant to Section 53314.9 of the Act, this Council may accept advances of funds or work-in-kind from any source, including, but not limited to, private persons or private entities, and may provide, by resolution, for the use of those funds or that work-in-kind for any authorized purpose, including, but not limited to, paying any cost incurred by the City in creating the District.

SECTION 8. A public hearing on the establishment of the District and the proposed rate, method of apportionment, and manner of collection of the special taxes shall be held at 6:00 p.m., or as soon thereafter as practicable, on Tuesday, June 12, 2007, at the regular
meeting place of the City Council, City Council Chambers, Basement Level, 1010 Tenth Street, Modesto, California 95353, such time being not less than 30 or more than 60 days following the adoption hereof.

SECTION 9. The Public Works Director, as the officer of the City who will be responsible for providing the proposed Facilities and Services to be financed by the District, if it is established, is directed to study the proposed District, and, at or before the time of the hearing, cause to be prepared and filed with the Council a report containing: (a) a brief description of the Facilities and Services by type which will in such officer’s opinion be required to adequately meet the needs of the District; (b) an estimate of: (i) the cost of providing the Facilities and Services; (ii) the fair and reasonable cost of any of the Facilities to be purchased; and (iii) the fair and reasonable cost of incidental expenses to be incurred in connection therewith, including the costs of the proposed bond financing and other related costs as provided in Section 53345.3 of the Act.

The report shall be made a part of the record of the hearing.

SECTION 10. At the time and place set forth in this Resolution for the hearing, any interested persons, including taxpayers, property owners and registered voters residing within the boundaries of the proposed District, may appear and be heard, and the testimony of all interested persons for or against the establishment of the District, the extent of the District, the furnishing of the Facilities and Services, or the proposed rate, method of apportionment and manner of collection of the special taxes will be heard and considered. Any protest may be made orally or in writing. However, any protests pertaining to the regularity or sufficiency of the proceedings shall be in writing and clearly set forth the irregularities and defects to which the objection is made. All written protests shall be filed with the City Clerk on or before the time fixed for the public hearing. Written protests may be withdrawn in writing at any time before the conclusion of the hearing.
SECTION 11. The City Clerk is directed to publish a notice of the hearing, in the
form required by the Act, not later than seven (7) days prior thereto, in a newspaper of general
circulation published in the area of the District, being The Modesto Bee, and otherwise in
accordance with Section 6061 of the California Government Code.

SECTION 12. (a) If fifty percent (50%) or more of the registered voters, or six
(6) registered voters, whichever is more, residing within the territory proposed to be included in
the District, or the owners of one-half (1/2) or more of the area of the land in the territory
proposed to be included in the District and not exempt from the special taxes, file written
protests against the establishment of the District, and the protests are not withdrawn so as to
reduce the value of the protests to less than a majority, no further proceedings to create the
District or to levy the special taxes will be taken for a period of one year from the date of the
decision of the Council.

(b) If the majority protests of the registered voters or the landowners are only
against the furnishing of a specified type or types of the Facilities or Services within the District,
or against levying a specified special tax, those types of Facilities or Services or the specified
special tax will be eliminated from the District proceedings.

(c) At the conclusion of the hearing, if the Council determines to establish the
District, it will adopt a resolution of formation and then submit the levy of the special taxes to
the qualified electors of the District in a special election.

SECTION 13. (a) If, after the hearing, the Council adopts a resolution of
formation establishing the District and submits the levy of the special taxes to the qualified
electors of the District in a special election, such election will be held at least ninety (90) days,
but not more than one hundred eighty (180) days following the adoption of the resolution of
formation. The City Clerk shall, within three business days after the adoption of the resolution
of formation, provide a copy of the resolution of formation, a certified map of sufficient scale
and clarity to show the boundaries of the District, and a sufficient description to allow the
election official to determine the boundaries of the District, to the official conducting the
election. Assessor’s parcel numbers for the land within the District shall be included if it is a
landowner election or the District does not conform to an existing district’s boundaries and if
requested by the official conducting the election.

(b) If the election is to be held less than one hundred twenty-five (125) days
after the adoption of the resolution of formation, the concurrence of the election official
conducting the election shall be required.

(c) Such time limits, or requirement pertaining to the conduct of the election,
may be waived with the unanimous consent of the qualified electors of the District and the
concurrence of the election official conducting the election.

(e) If at least twelve (12) persons, who need not necessarily be the same
twelve (12) persons, have been registered to vote within the territory of the proposed District for
each of the ninety (90) days preceding the close of the hearing, the vote will be by the registered
voters of the proposed District, with each voter having one vote. Otherwise, the vote will be by
the landowners of the proposed District and each landowner who is the owner of record at the
close of the hearing, or the authorized representative thereof, will have one (1) vote for each acre
or portion of an acre of land that such landowner owns within the proposed District. The number
of votes to be voted by a particular landowner will be specified on the ballot provided to that
landowner.

(f) Ballots for the special election authorized may be distributed to qualified
electors by mail with return postage prepaid or by personal service by the election official. The
official conducting the election may certify the proper mailing or personal delivery of ballots by
an affidavit, which shall constitute conclusive proof of such mailing or personal delivery in the
absence of fraud. The voted ballots shall be returned to the election officer conducting the
election not later than the hour specified in the resolution calling the election. However, if all the qualified voters have voted, the election shall be closed.

(g) Except as otherwise provided in the Act, the provisions of law regulating elections of the City, insofar as they may be applicable, will govern the election. Except as provided in the next sentence, there will be prepared and included in the ballot material provided to each voter an impartial analysis and arguments and rebuttals, if any, as provided in the California Elections Code. If the vote is to be by the landowners of the proposed District, analysis and arguments may be waived with the unanimous consent of all the landowners.

If the election is to be conducted by mail ballot, the election official conducting the election shall provide ballots and election materials, together with all supplies and instructions necessary for the use and return of the ballot. The identification envelope for return of mail ballots used in a landowner election shall contain the following: (1) the name of the landowner; (2) the address of the landowner; (3) a declaration, under penalty of perjury, stating that the voter is the owner of record or the authorized representative of the landowner entitled to vote and is the person whose name appears on the identification envelope; (4) the printed name and signature of the voter; (5) the address of the voter; (6) the date of signing and the place of execution of the declaration described in (3) above; and (7) a notice that the envelope contains an official ballot and will be opened only by the canvassing board.

(h) The procedures set forth in this Section for conducting the consolidated special election may be modified as the Council may determine to be necessary or desirable by a resolution subsequently adopted by the Council.

SECTION 14. This Council may, by ordinance, authorize contributions by the City from any sources of revenue not otherwise prohibited by law, of any specified amount, portion or percentage of such revenue for any of the following: (1) acquiring or constructing any of the Facilities; (2) the acquisition of interests in real property; (3) paying debt service with
respect to the financing of any such acquisition or construction; (4) providing the authorized Services; and (5) the payment of expenses incidental to any of the foregoing.

SECTION 15. This Council reserves to itself the right and authority to allow any interested owner of property within the District, subject to the provisions of Section 53344.1 of the Act and to those conditions it may impose, and any applicable prepayment penalties as described in the bond indenture or comparable instrument or document, to tender in full payment or part payment of any installment of the special tax levied to pay for the Facilities or the interest or penalties thereon which may be due or delinquent, but for which a bill has been received, any bond or other obligation secured thereby, the bond or other obligation to be taken at par and credit to be given for the accrued interest shown thereby computed to the date of tender.
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 8th day of May, 2007, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Keating, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: Olsen

ATTEST:  
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By: SUSANA ALCALA WOOD, City Attorney
Exhibit “A”

Rate and Method of Apportionment
CITY OF MODESTO
COMMUNITY FACILITIES DISTRICT NO. 2007-1
(NORTH BEYER #2)

RATE AND METHOD OF APPORTIONMENT OF SPECIAL TAXES

Special Taxes applicable to each Assessor’s Parcel in Community Facilities District No. 2007-1 (North Beyer #2) [herein “CFD No. 2007-1” or “the CFD”] shall be levied and collected according to the tax liability determined by the City Council of the City of Modesto, through the application of the appropriate amount or rate for Taxable Property, as described below. All of the property in CFD No. 2007-1, unless exempted by law or by the provisions of Section G below, shall be taxed for the purposes, to the extent, and in the manner herein provided, including property subsequently annexed to CFD No. 2007-1 unless a separate Rate and Method of Apportionment is adopted for the annexation area.

A. DEFINITIONS

The terms hereinafter set forth have the following meanings:

“Act” means the Mello-Roos Community Facilities Act of 1982, as amended, being Chapter 2.5, (commencing with Section 53311), Division 2 of Title 5 of the California Government Code.

“Administrative Expenses” means any or all of the following: expenses incurred by the City in carrying out its duties with respect to CFD No. 2007-1, including, but not limited to, levying and collecting the Special Taxes; the fees and expenses of legal counsel; charges levied by the County Auditor’s Office, Tax Collector’s Office, and/or Treasurer’s Office; costs related to annexing property into the CFD; costs related to property owner inquiries regarding the Special Taxes; and all other costs and expenses of the City in any way related to the establishment or administration of the CFD.

“Administrator” means the person or firm designated by the City to administer the Special Taxes according to this Rate and Method of Apportionment of Special Taxes.

“Annual Maintenance Special Tax” means a special tax levied in any Fiscal Year to pay the Annual Maintenance Special Tax Requirement, as defined below.

“Annual Maintenance Special Tax Requirement” means that amount necessary in any Fiscal Year to (i) pay for Authorized Services, (ii) pay Administrative Expenses, and (iii) cure any delinquencies in the payment of Annual Maintenance Special Taxes levied in prior Fiscal Years or (based on delinquencies in the payment of Annual Maintenance Special Taxes which have already taken place) are expected to occur in the current Fiscal Year.
“Assessor’s Parcel” or “Parcel” means a lot or parcel shown on an Assessor’s Parcel Map with an assigned Assessor’s Parcel number.

“Assessor’s Parcel Map” means an official map of the County Assessor designating parcels by Assessor’s Parcel number.

“Authorized Services” means those services that are authorized to be funded by CFD No. 2007-1.

“CFD Formation” means the date on which the Resolution of Formation to form CFD No. 2007-1 was adopted by the City Council.

“City” means the City of Modesto.

“City Council” means the City Council of the City of Modesto, acting as the legislative body of CFD No. 2007-1.

“County” means the County of Stanislaus.

“Developed Property” means, in any Fiscal Year, the following:

- for Single Family Detached Property, all Parcels for which a Final Map was recorded prior to June 30 of the preceding Fiscal Year but not prior to June 30, 2007,
- for Multi-Family Property, all Parcels for which a building permit for new construction of a residential structure was issued prior to June 30 of the preceding Fiscal Year but not prior to June 30, 2007, and
- for Other Property, all Parcels for which a building permit for construction of a building structure was issued prior to June 30 of the preceding Fiscal Year.

“Final Map” means a final map, or portion thereof, approved by the City pursuant to the Subdivision Map Act (California Government Code Section 66410 et seq.) that creates lots which do not need to be further subdivided prior to issuance of a building permit for a residential or non-residential structure. The term “Final Map” shall not include any Assessor’s Parcel Map or subdivision map or portion thereof, that does not create lots that are in their final configuration, including Assessor’s Parcels that are designated as remainder parcels.

“Fiscal Year” means the period starting July 1 and ending on the following June 30.

“Maximum Annual Maintenance Special Tax” means the greatest amount of Annual Maintenance Special Tax that can be levied on an Assessor’s Parcel in any Fiscal Year determined in accordance with Sections C and D.
"Maximum One-Time Facilities Special Tax" means the greatest amount of One-Time Facilities Special Tax that can be levied on an Assessor’s Parcel in any Fiscal Year determined in accordance with Sections C and D below.

"Maximum Special Taxes" means, collectively, the Maximum One-Time Facilities Special Tax and the Maximum Annual Maintenance Special Tax.

"Multi-Family Property" means all Parcels in CFD No. 2007-1 for which building permits have been issued for construction of a residential structure consisting of two or more residential units that share common walls, including but not limited to, townhomes, condominiums, duplexes, triplexes, fourplexes, and apartment units.

"Net Taxable Acreage" or "Net Taxable Acre" means the total acreage within a Final Map or Parcel less arterial road right-of-ways and property that is defined in the Final Map for use as a park site, school site, or City-owned or CFD-owned storm drainage basin. If a Subdivision Map is recorded which is not a Final Map for some or all Parcels created by the subdivision, the Administrator shall calculate the Net Taxable Acreage of such unsubdivided Parcels by identifying the Acreage of the Parcel and (i) adding a portion of the acreage of any non-arterial right-of-way that fronts the Parcel determined by drawing lines at right angles to the right-of-way, and (ii) subtracting a portion of the acreage of any arterial right-of-way that fronts the Parcel determined by drawing lines at right angles to the right-of-way. The Net Taxable Acreage of a Parcel or Final Map shall be determined in the sole discretion of the City.

"One-Time Facilities Special Tax" means a Special Tax, levied and collected in full by the City prior to a structural building permit being issued for new construction on Taxable Property.

"Original Parcel" means an Assessor’s Parcel (or a parcel within a recorded Subdivision Map that has not yet been assigned an Assessor’s Parcel number) that is in CFD No. 2007-1 at the time of CFD Formation or added to the CFD upon annexation. A Successor Parcel that is being further subdivided shall also be considered an Original Parcel for purposes of determining the Maximum Special Taxes pursuant to Section C below.

"Other Property" means, in any Fiscal Year, all Parcels of Taxable Property within the CFD for which building permits have been issued for construction of a non-residential structure.

"Proportionately" means, for Developed Property, that the ratio of the actual Annual Maintenance Special Tax levied in any Fiscal Year to the Maximum Annual Maintenance Special Tax authorized to be levied in that Fiscal Year is equal for all Assessor’s Parcels of Developed Property, respectively. In addition, for Undeveloped Property, "Proportionately" means that the ratio of the actual Annual Maintenance Facilities Special Tax to the Maximum Annual Maintenance Special Tax is equal for all Assessor’s Parcels of Undeveloped Property, respectively.

"Public Property" means any property within the boundaries of CFD No. 2007-1 that is owned by the federal government, State of California, County, City, or other public agency.
“Single Family Detached Lot” means an individual numbered lot, which is in its final configuration and for which a building permit may be issued for a single family detached unit.

“Single Family Detached Property” means, in any Fiscal Year, all Parcels of Developed Property for which a building permit was issued or will be issued for construction of a residential unit that does not share a common wall with another Unit.

“Special Taxes” means, collectively, the One-Time Facilities Special Tax and the Annual Maintenance Special Tax.

“Subdivision Map” means a Final Map, large lot subdivision map, or other map recorded with the County that results in the subdivision of an Original Parcel into two or more Successor Parcels.

“Successor Parcel” means an Assessor’s Parcel of Taxable Property created by the subdivision or reconfiguration of an Original Parcel on which construction of a residential or non-residential structure is permitted.

“Taxable Property” means all of the Assessor’s Parcels within the boundaries of CFD No. 2007-1 which are not exempt from the Special Tax pursuant to law or Section G below.

“Taxable Public Property” means, in any Fiscal Year, all Parcels of Public Property within CFD No. 2007-1 that, at the time of CFD Formation, were expected to be Taxable Property, and, based on this expectation, Maximum Special Taxes were assigned to the Parcels in a prior Fiscal Year.

“Undeveloped Property” means, in any Fiscal Year, all Parcels of Taxable Property within CFD No. 2007-1 that are not Developed Property.

B. DATA FOR ANNUAL ADMINISTRATION

On or about July 1 of each Fiscal Year, the Administrator shall identify the current Assessor’s Parcel numbers for all Parcels of Taxable Property in CFD No. 2007-1. The Administrator shall also determine (i) whether each Assessor’s Parcel of Taxable Property is Developed Property or Undeveloped Property, (ii) the Net Taxable Acreage of each Parcel, and (iii) the Annual Maintenance Special Tax Requirement.

In any Fiscal Year, if it is determined that (i) a Subdivision Map for a portion of property in CFD No. 2007-1 was recorded after January 1 of the prior Fiscal Year (or any other date after which the Assessor will not incorporate the newly-created Parcels into the then current tax roll), (ii) because of the date the Subdivision Map was recorded, the Assessor does not yet recognize the new Parcels created by the Subdivision Map, and (iii) one or more of the newly-created Parcels meets the definition of Developed Property, the Administrator shall calculate the Special Tax for the property affected by recordation of the Subdivision Map by determining the Special Tax that applies separately to each newly-created Parcel, then applying the sum of the individual Special Taxes to the Original Parcel or Successor Parcel that was subdivided by recordation of the Subdivision Map.
C. **MAXIMUM SPECIAL TAXES**

1. **Original Parcels**

Table 1 below identifies the Maximum One-Time Facilities Special Tax and Maximum Annual Maintenance Special Tax assigned to each Original Parcel in the CFD at the time of CFD Formation. Separate Maximum Special Taxes shall be assigned to Parcels added to the CFD as a result of future annexations.

<table>
<thead>
<tr>
<th>Fiscal Year 2007-08 Assessor’s Parcel Number or Subdivision Map Parcel Number</th>
<th>Fiscal Year 2007-08 Maximum One-Time Facilities Special Tax*</th>
<th>Fiscal Year 2007-08 Maximum Annual Maintenance Special Tax*</th>
</tr>
</thead>
<tbody>
<tr>
<td>082-005-031</td>
<td>$223,146</td>
<td>$37,138</td>
</tr>
<tr>
<td>Parcel 2 of Parcel Map 55-PM-12</td>
<td>$120,123</td>
<td>$19,992</td>
</tr>
</tbody>
</table>

*Special Taxes shown in Table 1 are subject to the annual adjustments described in Section D below.

2. **Successor Parcels**

Upon recordation of a Subdivision Map that subdivides an Original Parcel, the Administrator shall apply the appropriate subsection below to determine the Maximum Special Taxes for each Successor Parcel:

a. **All Successor Parcels are Single Family Detached Lots**

If all Parcels created by a recorded Subdivision Map are Single Family Detached Lots, the Administrator shall divide the Maximum Special Taxes assigned to the Original Parcel that was subdivided by the number of Single Family Detached Lots created within the Subdivision Map to determine the Maximum Special Taxes for each Single Family Detached Lot.

b. **No Successor Parcels are Single Family Detached Lots**

If none of the Successor Parcels created by recordation of a Subdivision Map are Single Family Detached Lots, the Administrator shall apply the following steps to allocate the Maximum Special Taxes assigned to the Original Parcel to each of the Successor Parcels:
Step 1: Determine the total combined Net Taxable Acreage within all Successor Parcels created from subdivision or reconfiguration of the Original Parcel.

Step 2: Divide the Maximum One-Time Facilities Special Tax and the Maximum Annual Maintenance Special Tax assigned to the Original Parcel by the Net Taxable Acreage determined in Step 1 to determine a Maximum One-Time Facilities Special Tax and a Maximum Annual Maintenance Special Tax per Net Taxable Acre.

Step 3: Multiply the Maximum Special Taxes per Net Taxable Acre determined in Step 2 by the Net Taxable Acreage of each Successor Parcel of Taxable Property to determine the Maximum One-Time Facilities Special Tax and Maximum Annual Maintenance Special Tax for each Parcel.

If, after subdivision of an Original Parcel, a Successor Parcel is further subdivided, the Successor Parcel shall be treated as an Original Parcel for purposes of allocating Maximum Special Taxes pursuant to Section C.2a, C.2b, or C.2c, as appropriate.

c. Some, But Not All, Successor Parcels are Single Family Detached Lots

If a Subdivision Map divides an Original Parcel into Successor Parcels, of which some are Single Family Detached Lots and some are not, the Administrator shall apply the following steps to determine the Maximum Special Taxes for each Successor Parcel:

Step 1: Separately identify: (i) the total Net Taxable Acreage created within the Subdivision Map, and (ii) the combined Net Taxable Acreage of all Single Family Detached Lots created within the Subdivision Map.

Step 2: Divide the Maximum One-Time Facilities Special Tax assigned to the Original Parcel by the total Net Taxable Acreage created within the Subdivision Map to determine the Maximum One-Time Facilities Special Tax per Net Taxable Acre.

Step 3: Divide the Maximum Annual Maintenance Special Tax assigned to the Original Parcel by the total Net Taxable Acreage created within the Subdivision Map to determine the Maximum Annual Maintenance Special Tax per Net Taxable Acre.

Step 4: Multiply the Maximum One-Time Facilities Special Tax per Net Taxable Acre that was calculated in Step 2 by the total combined Net Taxable Acreage of all Single Family Detached Lots (as determined in Step 1), and divide the product by the number of Single Family Detached Lots created in the Subdivision Map to calculate the Maximum One-Time Facilities Special Tax for each Single Family Detached Lot.
Step 5: Multiply the Maximum Annual Maintenance Special Tax per Net Taxable Acre that was calculated in Step 3 by the total combined Net Taxable Acreage of all Single Family Detached Lots (as determined in Step 1), and divide the product by the number of Single Family Detached Lots created in the Subdivision Map to calculate the Maximum Annual Maintenance Special Tax for each Single Family Detached Lot.

Step 6: Multiply the Maximum One-Time Facilities Special Tax per Net Taxable Acre that was calculated in Step 2 by the Net Taxable Acreage of each Parcel of Taxable Property created within the Subdivision Map that is not a Single Family Detached Lot to determine the Maximum One-Time Facilities Special Tax for each Parcel.

Step 7: Multiply the Maximum Annual Maintenance Special Tax per Net Taxable Acre that was calculated in Step 3 by the Net Taxable Acreage of each Parcel of Taxable Property created within the Subdivision Map that is not a Single Family Detached Lot to determine the Maximum Annual Maintenance Special Tax for each Parcel.

If, after subdivision of an Original Parcel, a Successor Parcel is further subdivided, the Successor Parcel shall be treated as an Original Parcel for purposes of allocating Maximum Special Taxes pursuant to Section C.2a, C.2b, or C.2c, as appropriate.

After each reallocation of the Maximum Special Taxes upon subdivision or reconfiguration of Original Parcels, the sum of the Maximum Special Taxes assigned to Successor Parcels shall never be less than the Maximum Special Taxes assigned to the Original Parcels prior to such reallocation.

D. ESCALATION OF MAXIMUM SPECIAL TAXES

1. One-Time Facilities Special Tax

Beginning in January 2008 and each January thereafter, the Maximum One-Time Facilities Special Tax assigned to each Parcel shall be adjusted by the greater of (i) the percentage increase, if any, in the construction cost index for the San Francisco region for the prior twelve (12) month period as published in the Engineering News Record or other comparable source if the Engineering News Record is discontinued or otherwise not available, or (ii) four percent (4.0%). Each annual adjustment of the One-Time Facilities Special Tax shall become effective on the subsequent July 1.

2. Annual Maintenance Special Tax

Beginning in January 2008 and each January thereafter, the Maximum Annual Maintenance Special Tax assigned to each Parcel shall be adjusted by the greater of (i) the percentage increase, if any, in the construction cost index for the San Francisco region for the prior twelve (12) month period as
published in the Engineering News Record or other comparable source if the Engineering News Record is discontinued or otherwise not available, or (ii) four percent (4.0%). Each annual adjustment of the Maximum Annual Maintenance Special Tax shall become effective on the subsequent July 1.

E. METHOD OF LEVY OF THE SPECIAL TAX

1. One-Time Facilities Special Tax

The Maximum One-Time Facilities Special Tax determined pursuant to Sections C and D above shall be levied on all Taxable Property in CFD No. 2007-1 and shall be collected as set forth in Section F below.

2. Annual Maintenance Special Tax

Each Fiscal Year, the Administrator shall determine the Annual Maintenance Special Tax Requirement for the Fiscal Year. The Annual Maintenance Special Tax shall then be levied on all Parcels of Taxable Property as follows:

**Step 1:** The Annual Maintenance Special Tax shall be levied Proportionately on each Parcel of Developed Property within the CFD up to 100% of the Maximum Annual Maintenance Special Tax for each Parcel for such Fiscal Year.

**Step 2:** If additional revenue is needed after Step 1, the Annual Maintenance Special Tax shall be levied Proportionately on each Assessor’s Parcel of Undeveloped Property within the CFD, up to 100% of the Maximum Annual Maintenance Special Tax for each Parcel of Undeveloped Property for such Fiscal Year.

**Step 3:** If additional revenue is needed after applying the first two steps, the Annual Maintenance Special Tax shall be levied Proportionately on each Assessor’s Parcel of Taxable Public Property, up to 100% of the Maximum Annual Maintenance Special Tax assigned to each Parcel of Taxable Public Property.

F. COLLECTION OF SPECIAL TAX

The Maximum One-Time Facilities Special Tax shall be collected prior to a building permit being issued for new construction of any residential or non-residential structure on Taxable Property within CFD No. 2007-1, and shall be immediately delinquent if not so paid.

The Annual Maintenance Special Tax for CFD No. 2007-1 shall be collected in the same manner and at the same time as ordinary ad valorem property taxes, provided, however, that the City may directly bill, collect at a different time or in a different manner, and/or collect delinquent Annual...
Maintenance Special Taxes through foreclosure or other available methods. The Annual Maintenance Special Tax shall be levied and collected unless and until the City determines that the Annual Maintenance Special Tax no longer needs to be levied to pay Authorized Services and all Administrative Expenses have been reimbursed.

G. EXEMPTIONS

Notwithstanding any other provision of this Rate and Method of Apportionment of Special Taxes, no Special Taxes shall be levied on Public Property except Taxable Public Property, as defined herein.

H. INTERPRETATION OF SPECIAL TAX FORMULA

The City reserves the right to make minor administrative and technical changes to this document that do not materially affect the Rate and Method of Apportionment of Special Taxes. In addition, the interpretation and application of any section of this document shall be left to the City’s discretion. Interpretations may be made by the City by ordinance or resolution for purposes of clarifying any vagueness or ambiguity in this Rate and Method of Apportionment of Special Taxes.
Exhibit "B"

LIST OF FACILITIES
EXHIBIT "B"

LIST OF FACILITIES

The facilities described below are all facilities which the City of Modesto Community Facilities District No. 2007-1 is authorized to finance.

- Oakdale Road (Principle Arterial) between Mable Ave. and Claratina Ave. This road segment includes a landscaped median and a landscaped parkway strip.
- Coffee Road (Minor Arterial) between Mable Ave. and Claratina Ave. This road segment includes a landscaped median.

LIST OF SERVICES

Included in City of Modesto CFD No. 2007-1 is the maintenance of the landscaping on Claratina Ave., Oakdale Road, Mable Ave. and Coffee Road. Maintenance of the Rose Villas park/basin site is also included.
MODESTO CITY COUNCIL
RESOLUTION NO. 2007-271

A RESOLUTION AUTHORIZING THE PURCHASING MANAGER TO
CONDUCT A SOLE SOURCE PURCHASE OF NEW REMOTE TERMINAL
UNITS (RTU’S) AND RADIOS, WITH RELATED EQUIPMENT, INCLUDING
THE REPAIR OF RTU RADIOS AND BOARDS, FOR THE CITY OF
MODESTO, FROM HSQ TECHNOLOGY, HAYWARD, CA, FOR A TWO (2)
YEAR AGREEMENT, WITH THREE (3) ONE-YEAR CONTRACT EXTENSION
OPTIONS, AT THE SOLE DISCRETION OF THE CITY.

WHEREAS, the Public Works Department-Water Quality Control (WQC) Division
intermittently has the need to install or replace RTU’s, radios and related equipment as part of
the Supervisory Control and Data Acquisition (SCADA) System, and

WHEREAS, Remote Terminal Units (RTU’S) are industrial computers used to collect,
store, and transmit operational data (flows, pressures, pump status, valve position, and motor
current) back to the SCADA control center, and

WHEREAS, commands from the control center are also transmitted to the RTU to
start/stop pumps, open/close valves, and adjust setpoints, and

WHEREAS, the RTU can be programmed with control logic to independently operate a
facility (start/stop equipment, shutdown on certain alarms, and maintain pressure/level), and

WHEREAS, newer RTU’s support the ability to communicate with other intelligent
field devices such as operator touch screens, programmable logic controllers, and wireless
input/output devices, effectively becomes a gateway for passing operational data between
various devices, and

WHEREAS, the City of Modesto utilizes RTU’s manufactured by HSQ Technology, the
City’s SCADA System provider, and

WHEREAS, much of the functionality of our SCADA system works specifically with
HSQ RTU’s and would be lost if another manufacturer’s RTU’s were used, and
WHEREAS, in FY 05/06, expenditures for RTU’s, radios and related equipment were $104,000, and

WHEREAS, in FY 06/07, expenditures for RTU’s, radios and related equipment to date have reached $81,400, and

WHEREAS, HSQ Technology is the sole provider for SCADA RTU’s, radios and related equipment, and

WHEREAS, an annual purchase agreement with HSQ Technology for the purchase of new RTU’s and radios, with related equipment, including the repair of RTU radios and boards will ensure availability and consistency in pricing for projects throughout the City, and

WHEREAS, Modesto Municipal Code Section 8-3,203, generally requires all purchases, which meet or exceed $50,000 for material, equipment or contractual services to be formally bid, and

WHEREAS, however, one exception to the formal bid process, Modesto Municipal Code Section 8-3.204(b), states whereas the purchasing agencies requirements can be met solely by a single article or process. The sole source purchase of new remote terminal units and radios, with related equipment, includes repair, conforms to the Modesto Municipal Code.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby authorizes the award of contract for the purchase of new RTU’s and radios, with related equipment, including the repair of RTU radios and boards to HSQ Technology, Hayward, CA, for a two (2) year agreement, with three (3) one-year contract extension options, at the sole discretion of the City.

BE IT FURTHER RESOLVED that the Purchasing Manager is hereby authorized to issue a purchase agreement for the purchase of new RTU’s and radios, with related equipment,
including the repair of RTU radios and boards to HSQ Technology, Hayward, CA, for a two (2) year agreement, with three (3) one-year extension options, at the sole discretion of the City.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 8th day of May, 2007, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Keating, was upon roll call carried and the resolution adopted by the following vote:

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

APPROVED AS TO FORM:

BY: Susana Alcala Wood, City Attorney

ATTEST: Jean Morris, City Clerk
MODESTO CITY COUNCIL
RESOLUTION NO. 2007-272

A RESOLUTION AUTHORIZING THE PURCHASING MANAGER TO ISSUE FORMAL REQUEST FOR BIDS (RFB) FOR THE PURCHASE OF CONCRETE BOXES AND COVERS FOR THE FINANCE DEPARTMENT-CENTRAL STORES DIVISION, FOR A TWO (2) YEAR AGREEMENT, WITH THREE (3) ONE-YEAR EXTENSION OPTIONS AT THE SOLE DISCRETION OF THE CITY, FOR AN ESTIMATED ANNUAL COST OF $41,000

WHEREAS, the Finance Department-Central Stores Division has requested the purchase of concrete boxes and covers, and

WHEREAS, concrete boxes and covers are used for housing valves and meters, and

WHEREAS, concrete boxes and covers are stocked by the Central Stores Division and then issued to requesting departments, and

WHEREAS, the need and specifications for concrete boxes and covers has been developed over time through collaboration between Central Stores staff and division personnel requesting the materials, and

WHEREAS, by issuing RFB’s, the City will achieve the best value for concrete boxes and covers, and meet Modesto Municipal Code requirements for formal bids, and

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

WHEREAS, the issuance of a formal Request for Bid for the purchase of concrete boxes and covers conforms to the Modesto Municipal Code, and

WHEREAS, the funds for inventory purchases have been appropriated in account number 7110-120-8311-0439 (Inventory Purchases Stores), and

WHEREAS, material is purchased using these funds and recouped through sales to City Divisions, and
WHEREAS, the Purchasing Division has coordinated the drafting of bid specifications for concrete boxes and covers with the Central Stores Division,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby authorizes the Purchasing Manager to issue a formal Request for Bid (RFB) for the purchase of concrete boxes and covers for a two (2) year agreement, with three (3) one-year extension options at the sole discretion of the City, for an estimated annual cost of $41,000 as follows:

BE IT FURTHER RESOLVED THAT the City Clerk is hereby authorized to call for public competitive sealed bids for concrete boxes and covers to be opened in the City Clerk’s office, 1010 10th Street, in the City of Modesto. The City Clerk shall be directed to give notice inviting such sealed bids in the time, form, and manner provided by law.

BE IT FURTHER RESOLVED THAT after sealed bids are opened they shall be tabulated and analyzed by the Purchasing Division and a report submitted to the Council.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 8th day of May, 2007 by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Keating, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: Olsen

ATTEST: 

Jean Morris, City Clerk

APPROVED AS TO FORM:

BY: Susana Alcala Wood, City Attorney
A RESOLUTION AUTHORIZING THE AWARD OF PROPOSAL AND CONTRACT FOR THE FURNISHING AND INSTALLATION OF PRE-TREATMENT PROGRAM SOFTWARE FOR THE PUBLIC WORKS ENVIRONMENTAL SERVICES DIVISION TO ENFOTECH & CONSULTING INC., LAWRENCEVILLE, NJ IN THE APPROXIMATE AMOUNT OF $96,000 AND AUTHORIZING THE CITY MANAGER TO EXECUTE THE CONTRACT.

WHEREAS, the City’s National Pollution Discharge Elimination System (NPDES) permit requires the tracking of industrial and other permitted customers to ensure compliance with pretreatment regulations, and

WHEREAS, the current process of using a Microsoft Access database does not allow for all-inclusive compliance tracking of usage or provide for current data monitoring, and

WHEREAS, since 2003 Public Works Environmental Services staff has been using individually developed spreadsheets to track compliance and a Microsoft Access database for billing industrial customers for sewer usage, and

WHEREAS, on April 25, 2006, Council approved Resolution No. 2006-255 authorizing the Purchasing Manager to issue formal Request for Proposals (RFP) for the furnishing and installation of Pre-Treatment Program Software for the Public Works Environmental Services Division, and

WHEREAS, the Purchasing Division issued RFP No. 0607-13 for the furnishing and installation of Pre-Treatment Program Software to seven (7) prospective proposers, posted the RFP on the City’s Website and advertised in the local newspaper as required by law, and
WHEREAS, on November 7, 2006, proposals were formally opened with four (4) firms submitting proposals, and

WHEREAS, an evaluation committee assessed the proposals based on stated evaluation criteria, and

WHEREAS, based on being ranked highest in total evaluation criteria, the evaluation committee recommended award of proposal and contract for the furnishing and installation of Pre-Treatment Program Software for the Public Works Environmental Services Division to EnfoTech & Consulting Inc. of Lawrenceville, NJ and

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

WHEREAS, the issuance RFP No. 0607-13 for furnishing and installation of Pre-Treatment Program Software for the Public Works Environmental Services Division to meet the current NPDES permit requirements conformed to MMC Section 8-3.203,

WHEREAS, funds for the purchase of Pretreatment Program Software are budgeted in 6210-480-5217-5400,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby authorizes the award of proposal and contract for the furnishing and installation of Pre-Treatment Program Software for the Public Works Environmental Services Division, to EnfoTech & Consulting of Lawrenceville, NJ in the approximate amount of $96,000.
BE IT FURTHER RESOLVED that the Purchasing Manager is hereby authorized to issue a purchase order both for the furnishing and installation of Pre-Treatment Program Software for the Public Works Environmental Services Division, to EnfoTech & Consulting of Lawrenceville, NJ in the approximate amount of $96,000.

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 8th day of May, 2007, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Keating, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: Olsen

ATTEST:

Jean Morris, City Clerk

(SEAL)

APPROVED AS TO FORM:

BY: ________________

Susana Alcala Wood, City Attorney
MODesto CITY COUNCIL
RESOLUTION NO. 2007-274

A RESOLUTION AUTHORIZING THE AWARD OF BID AND CONTRACTS FOR THE FURNISHING OF WELL REHABILITATION SERVICES FOR THE PUBLIC WORKS DEPARTMENT, WATER DIVISION, TO ZIM INDUSTRIES, FRESNO, CA AS THE "PRIMARY" CONTRACTOR, AND LAYNE CHRISTENEN CO., FONTANA, CA AS THE "SECONDARY" CONTRACTOR, FOR A TWO (2) YEAR AGREEMENT, WITH THREE (3) ONE-YEAR EXTENSION OPTIONS AT THE SOLE DISCRETION OF THE CITY, FOR A TOTAL ESTIMATED ANNUAL COST OF $169,987

WHEREAS, the City of Modesto owns and operates 113 water well sites, which have a producing capacity of 109.97 million gallons per day (MGD) of water, and

WHEREAS, this water system services approximately 76,000 customer locations, for a total of 280,000 people, and

WHEREAS, many of the City's wells are old and starting to deteriorate, and

WHEREAS, wells with reduced water supply are inspected via video to verify the integrity of the well, but are only rehabilitated when the supply levels reach a critically low level, and

WHEREAS, by contracting for well rehabilitation services, the Water Division will be able to proactively rehabilitate the aged wells before they reach a critical level, and

WHEREAS, funding for well rehabilitation services will come from the Water Enterprise Fund, which derives its funding from user fees, and

WHEREAS, in order to ensure continued services to the City, contracts have been awarded to more than one contractor to provide for backup in case the primary contractor is unable to meet the City's needs. A secondary position contractor may be awarded a specific job only if the primary contractor is unable to perform the service, or if the
primary contractor is unable to complete the specific job within the time frame required by the City, and finally, if the primary contractor is unable to maintain acceptable quality standards required by the City,

WHEREAS, on May 3, 2005, Council approved Resolution No. 2005-231 authorizing the Purchasing Manager to issue formal Request for Bids (RFB) for the furnishing of well rehabilitation services for the Public Works Department, Water Division, for a two (2) year agreement, with three (3) one-year extension options at the sole discretion of the City, and

WHEREAS, on August 29, 2006, the Purchasing Division issued Request for Bid No. 0607-10 for the furnishing of well rehabilitation services to sixteen (16) prospective bidders, six (6) of which were local companies, posted the bid on the City’s web site, and formally advertised as required by law, and

WHEREAS, on October 3, 2006, RFB’s were formally opened in the City Clerk’s office. Of the sixteen (16) prospective bidders, three (3) companies chose to respond, and

WHEREAS, one of the bids received did not include the Bid Acknowledgement, Exhibit “A”, and the bid was deemed non-responsive and non-responsible by City staff, and received no consideration, and

WHEREAS, based on providing responsive and responsible bids, City staff recommends the award of bid and contracts for the furnishing of Well Rehabilitation Services for the Public Works Department, Water Division, to Zim Industries, Fresno, CA as the “primary” contractor, and Layne Christensen Co., Fontana, CA as the “secondary” contractor, for a two (2) year agreement, with three (3) one-year extension
options at the sole discretion of the City, for a total estimated annual cost of $169,987, and

WHEREAS, Modesto Municipal Code Section 8-3.203 generally requires all purchases, which meet or exceed $50,000 for material, equipment or contractual services to be formally bid. The award of bid and contracts for the furnishing of well rehabilitation services for the Public Works Department, Water Division, conforms to the Modesto Municipal Code,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby authorizes the award of bid and contracts for the furnishing of Well Rehabilitation Services for the Public Works Department, Water Division, to Zim Industries, Fresno, CA as the “primary” contractor, and Layne Christensen Co., Fontana, CA as the “secondary” contractor, for a two (2) year agreement, with three (3) one-year extension options at the sole discretion of the City, for a total estimated annual cost of $169,987.

BE IT FURTHER RESOLVED that the Purchasing Manager is hereby authorized to issue a purchase agreement for the furnishing of Well Rehabilitation Services for the Public Works Department, Water Division, to Zim Industries, Fresno, CA as the “primary” contractor, and Layne Christensen Co., Fontana, CA as the “secondary” contractor, for a two (2) year agreement, with three (3) one-year extension options at the sole discretion of the City, for a total estimated annual cost of $169,987.
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 8th of May, 2007, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Keating, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: Olsen

APPROVED AS TO FORM:

By: __________________________
    Susana Alcala Wood, City Attorney

ATTEST: __________________________
Jean Morris, City Clerk

050807/Finance/KMassaso/item11  4  2007-274
MODESTO CITY COUNCIL
RESOLUTION NO. 2007-275

A RESOLUTION APPROVING THE ISSUANCE OF REVENUE BONDS BY THE MODESTO IRRIGATION DISTRICT FINANCING AUTHORITY RELATED TO THE FINANCING OF PHASE TWO OF THE DOMESTIC WATER TREATMENT AND DELIVERY SYSTEM OF THE MODESTO IRRIGATION DISTRICT, AUTHORIZING FINANCING AMENDMENTS TO THE AMENDED AND RESTATED TREATMENT AND DELIVERY AGREEMENT AND AUTHORIZING SWAP AGREEMENTS IN CONNECTION WITH REFUNDING OF THE MODESTO IRRIGATION DISTRICT FINANCING AUTHORITY DOMESTIC WATER PROJECT REVENUE BONDS, SERIES 1998D

WHEREAS, the City of Modesto, a charter city and municipal corporation organized and existing under the laws of the State of California (the “City”), currently provides municipal water service within the service boundaries of the Modesto Irrigation District (the “District”), and

WHEREAS, the District proposes to finance a Phase Two expansion of the domestic water treatment and delivery system of the District (the “Project”) through the issuance of Modesto Irrigation District Financing Authority Domestic Water Project Revenue Bonds in one or more series (the “2007 Bonds”), and

WHEREAS, the 2007 Bonds will be issued for the benefit of the City’s Municipal Water Utility and will be repaid from the debt service portion of payments (the “Debt Service Portion”) made by the City in accordance with the Amended and Restated Treatment and Delivery Agreement entered into in 2005 by the City and the District (the “Treatment and Delivery Agreement”),

WHEREAS, the City and the District desire to amend the Treatment and Delivery Agreement in order to facilitate the issuance and/or refunding of the Bonds (as defined below) with a variable interest rate integrated with interest rate swaps (the “Swap Agreements”) in connection with the Bonds, in the form of the Financing Amendments to Amended and Restated
Treatment and Delivery Agreement, dated as of June 1, 2007 (the "Treatment and Delivery Agreement Amendment"), by and between the City and the District;

WHEREAS, pursuant to Section 18.5.2 of the Treatment and Delivery Agreement, the District and the City have both agreed that with respect to one or more series of the Bonds, Variable Financing (as such term is defined in the Treatment and Delivery Agreement), as well as associated Swap Agreements, shall be applied to and used throughout the term of such series of Bonds; and

WHEREAS, the Modesto Irrigation District Financing Authority (the "Authority") previously issued its Modesto Irrigation District Financing Authority Domestic Water Project Revenue Bonds Series 1998D (the "1998D Bonds" and, together with the 2007 Bonds, the "Bonds") to refinance the domestic water treatment and delivery system of the District, and

WHEREAS, the City desires to confirm that the Authority may enter into a Swap Agreement in connection with the refunding of all or a portion of the 1998D Bonds, and

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

SECTION 1. The City Council of the City hereby finds and determines that the matters set forth in the preambles to this Resolution are true and correct.

SECTION 2. The City Council of the City hereby approves of the issuance of the 2007 Bonds by the Authority at one time, or from time to time, in one or more series separately or differently identified for the benefit of the City’s Municipal Water Utility; provided, however, that the aggregate principal amount of the 2007 Bonds shall not exceed $97,000,000, the final maturity of the 2007 Bonds shall not exceed September 1, 2039 and the underwriter's discount with respect to the 2007 Bonds shall not exceed 0.55%.
SECTION 3. The proposed form of the Official Statement relating to the 2007 Bonds (the “Official Statement”) as presented to this meeting is hereby approved. Bear, Stearns & Co. Inc., as underwriter with respect to the 2007 Bonds, is hereby authorized to distribute copies of the Official Statement in preliminary form to prospective purchasers of the 2007 Bonds and is hereby directed to distribute copies of the Official Statement in final form to all actual purchasers of the 2007 Bonds. The Mayor, the City Manager or Finance Director is hereby authorized and directed to execute and deliver a final Official Statement, in substantially the form as such deemed final Preliminary Official Statement.

SECTION 4. The proposed form of the Treatment and Delivery Agreement Amendment as presented to this meeting is hereby approved. The Mayor, the City Manager or Finance Director is hereby authorized and directed to execute and deliver the Treatment and Delivery Agreement Amendment in substantially such form.

SECTION 5. The Treatment and Delivery Agreement, as amended, is ratified and confirmed.

SECTION 6. Subject to the conditions specified in Section 2 hereof, the Mayor, the City Manager or Finance Director (or his or her designee) are hereby authorized and directed, jointly and severally, to do any and all things and to execute and deliver any and all documents, certificates and other instruments, including a continuing disclosure agreement and a tax certificate relating to the 2007 Bonds, which they may deem necessary or advisable, to carry out, give effect to and comply with the terms and intent of this Resolution.

SECTION 7. The City Council of the City hereby confirms that the Authority may enter into one or more Swap Agreements (the “1998D Swap Agreements”) in connection with the refunding of all or a portion of the Series 1998D Bonds; provided that, (1) the maximum notional amount of the applicable 1998D Swap Agreements executed in connection with the refunding of all or a portion of the 1998D Bonds shall not exceed $75,000,000; (2) the estimated
present value savings from completing the refunding of all or a portion of the 1998D Bonds by including the 1998D Swap Documents shall be not less than four percent (4%) for the 1998D Bonds to be refunded, all as calculated by Bear Stearns and confirmed by the financial advisor to the City, which calculation upon such confirmation shall be final and conclusive and binding upon the City; and (3) the 1998 Swap Agreements shall be executed no later than December 31, 2007.

SECTION 8. This Resolution shall take effect immediately upon its adoption.

The foregoing resolution was introduced at a regular meeting of the City Council of the City of Modesto held on the 8th day of May, 2007, by Councilmember Marsh who moved its adoption, which motion being duly seconded by Councilmember Dunbar, was upon roll call carried and the Resolution adopted by the following vote:

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

ATTEST: Jean Morris, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: Susana Wood, City Attorney
A RESOLUTION ACCEPTING THE 2006 COMMERCIAL EQUIPMENT DIRECT ASSISTANCE PROGRAM (CEDAP) FOR VIDEODETECTIVE EQUIPMENT FROM THE DEPARTMENT OF HOMELAND SECURITY'S (DHS) OFFICE OF GRANTS, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE NECESSARY DOCUMENTS.

WHEREAS, the Modesto Police Department submitted an application from the Department of Homeland Security’s (DHS) Office of Grants, for VideoDetective equipment, and

WHEREAS, the VideoDetective is very versatile and will allow law enforcement all Stanislaus County law enforcement agencies, Highway Patrol, Sheriffs Office, Fire Departments, and the California State University Police to digitalize and enhance videotapes and assist in the viewing and distributing of clear video images, and

WHEREAS, this equipment will be used to conduct surveillance of both known and suspected criminals, especially those who pose a threat to national security, and

WHEREAS, acceptance of this grant enhances Healthy and Safe Strategic Action Plan, H.I.B.8., which calls for obtaining public service grants, and

WHEREAS, the total VideoDetective equipment is valued at approximately $49,950 with no local match required of the City,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby accepts the 2006 Commercial Equipment Direct Assistance Program (CEDAP) for VideoDetective equipment from the Department of Homeland Security’s (DHS) Office of Grants.

BE IT FURTHER RESOLVED that the City Manager, or his authorized designee, is hereby authorized to execute the necessary documents.
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 8th day of May, 2007, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Keating, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: Olsen

ATTEST: Jean Morris

JEAN MORRIS, City Clerk

(SEAL)

APPROVED AS TO FORM:

By:  
SUSANA ALCALA WOOD, City Attorney
A RESOLUTION APPROVING THE PLANS AND SPECIFICATIONS FOR THE CONSTRUCT ADDITIONAL PARKING LOT AT AIRPORT PASSENGER TERMINAL PROJECT, ACCEPTING THE BID AND APPROVING A $618,890.00 CONTRACT WITH TEICHERT CONSTRUCTION, FOR THE PROJECT TITLED, “CONSTRUCT ADDITIONAL PARKING LOT AT AIRPORT PASSENGER TERMINAL,” AND AUTHORIZING THE CITY MANAGER TO EXECUTE THE CONTRACT

WHEREAS, plans and specifications have been prepared for the “Construct Additional Parking Lot at Airport Passenger Terminal” and City staff recommends approval to the City Council, and

WHEREAS, the bids received for “Construct Additional Parking Lot at Airport Passenger Terminal” were opened at 11:00 a.m. on April 17, 2007, and later tabulated by the Public Works Director for the consideration of the Council, and

WHEREAS, the Public Works Director has recommended that the bid of $618,890.00 received from Teichert Construction, be accepted as the lowest responsible bid and the contract be awarded to Teichert Construction,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the plans and specifications for said project, and accepts the bid of Teichert Construction, in the amount $618,890.00, and hereby awards Teichert Construction, the contract titled “Construct Additional Parking Lot at Airport Passenger Terminal”.

BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to execute the contract.
The foregoing resolution was introduced at a regular meeting of the Council of
the City of Modesto held on the 8th day of May 2007, by Councilmember Hawn, who
moved its adoption, which motion being duly seconded by Councilmember Keating, was
upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: Olsen

ATTEST: \[Signature\]
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By \[Signature\]
SUSANA ALCALA WOOD, City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2007-278

A RESOLUTION AMENDING THE CAPITAL IMPROVEMENT PROGRAM BUDGET FOR FY2006-07 IN ORDER TO FULLY FUND THE CONTRACT WITH TEICHERT CONSTRUCTION, AND COVER CONSTRUCTION CONTINGENCY AND CONSTRUCTION ADMINISTRATION COSTS BY DECREASING CIP ACCOUNT 6320-440-A804-6040 (AIRPORT SIGNAGE/TAXI LANE) BY $62,668, AND RETURNING THE FUNDS TO ACCOUNT 6320-800-8000-8003 (SPECIAL AVIATION FUND RESERVES), THEN DECREASING ACCOUNT 6320-800-8000-8003 (SPECIAL AVIATION FUND RESERVES) AND REAPPROPRIATING $62,668 TO CIP ACCOUNT 6320-440-A008 (AIRPORT TERMINAL PARKING LOT EXPANSION)

WHEREAS, the CIP account 6320-440-A008 (Airport Terminal Parking Lot Expansion) only provides $690,000 in available funds to fully fund construction of the Airport Terminal Parking Lot project in the estimated total amount of $752,668, including funding a Contract with Teichert Construction, for construction and to cover construction contingency and construction administration costs including City staff labor, and

WHEREAS, certain budgetary transactions are necessary to fully fund said Contract with Teichert Construction, in the amount of $618,890 for construction services, $61,889 for construction contingency, and $61,889 to cover construction administration costs, including contract administration by City staff, and $10,000 for City staff to install a temporary overflow parking lot, for a total of $752,668, and

WHEREAS, the CIP Account 6320-440-A804 (Airport Signage/Taxi Lane) experienced savings due to a favorable bid below the budgeted engineer’s estimate for construction, and

WHEREAS, the total amount of $62,668 is to be transferred by decreasing CIP Account 6320-440-A804-6040 (Airport Signage/Taxi Lane) and returning the funds to Account 6320-800-8000-8003 (Special Aviation Fund Reserves), then decreasing
Account 6320-800-8000-8003 (Special Aviation Fund Reserves) and reappropriating $62,668 to CIP account 6320-440-A008 (Airport Terminal Parking Lot Expansion),

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the transfer of funds as set forth herein to fully fund the Contract with Teichert Construction, in the amount of $618,890 for construction services, $61,889 for construction contingency, and $61,889 to cover construction administration costs, including contract administration by City staff, and $10,000 for City staff to install a temporary overflow parking lot, for a total of $752,668 for the Airport Terminal Parking Lot Expansion project.

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 8th day of May, 2007, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Keating, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: Olsen

ATTEST: Jean Morris

JEAN MORRIS, City Clerk

(SEAL)

APPROVED AS TO FORM:

By

SUSANA ALCALA WOOD, City Attorney

5/8/07/PW/DPHillips/Item14  2  2007-278
A RESOLUTION ACCEPTING THE WORK BY MCPHEE MASONRY, INC., FOR THE PROJECT TITLED “MODESTO POLICE DEPARTMENT TRAINING CENTER BLOCK WALL EXTENSION” AS COMPLETE, AUTHORIZING THE CITY CLERK TO FILE A NOTICE OF COMPLETION WITH THE STANISLAUS COUNTY RECORDER, AND AUTHORIZING PAYMENT OF AMOUNTS TOTALING $19,849.50

WHEREAS, a report has been filed by the Public Works Director that the project titled “Modesto Police Department Training Center Block Wall Extension” has been completed by McPhee Masonry, Inc., in accordance with the contract agreement dated December 5, 2006,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the project titled “Modesto Police Department Training Center Block Wall Extension” is hereby accepted as complete from said contractor, McPhee Masonry, Inc., that the City Clerk is authorized to file a Notice of Completion with the Stanislaus County Recorder, and that payment of amounts totaling $19,849.50, is authorized as provided in the contract.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 8th day of May, 2007, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Keating, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: Olsen

ATTEST: JEAN MORRIS, City Clerk

(SEAL)

APPROVED AS TO FORM:

By SUSANA ALCALA WOOD, City Attorney
A RESOLUTION AMENDING THE CAPITAL IMPROVEMENT PROGRAM BUDGET FOR FY 2006-07 TO CREATE A NEW PROJECT 0510-160-E691 - TRAFFIC OPERATIONS FACILITY, AND AUTHORIZING THE APPROPRIATION OF $61,000 FROM LOCAL TRANSPORTATION FUND RESERVES (0510-800-8000) TO FUND PAVING AND DRAINAGE-RELATED LANDSCAPING BY CITY FORCES AT THE 117 ELM STREET BUILDING.

WHEREAS, City-owned property at 117 Elm Street holds a partially completed operations building to house the Traffic Operations Division of the Public Works Department, and

WHEREAS, the current status of the facility is that metal structures are in place, paving needs to be done, and drainage-related landscape needs to be installed, and

WHEREAS, interior improvements will then need to be made prior to occupancy, and

WHEREAS, Traffic Operations employees are currently housed in a substandard building with chronic roof leaks, plumbing, and HVAC problems, which creates ongoing demands for maintenance, and

WHEREAS, BOVEE Environmental assessed the building and recommended removal and disposal of building materials with visible mold or moisture, and

WHEREAS, BOVEE also suggested removal of water damaged ceiling tiles and clean all exposed wood framing behind ceiling tiles, and

WHEREAS, staff began preparations only to uncover and expose new areas of mold growth that need to be addressed, and

WHEREAS, discontinuing investment in the degraded building, which will be demolished to make way for the Bus Maintenance Operations area, and establishing
funding for the completion of the 117 Elm Street facility was deemed more appropriate, and

WHEREAS, staff recommends the use of City Forces to complete paving and drainage-related landscaping at an estimated cost of $61,000, a projected savings of $69,000 from the total estimated cost of the project, and

WHEREAS, completion of the paving and drainage-related landscaping will allow the current buildings to be used for storage, and

WHEREAS, funds are available from the Local Transportation Fund Reserves (0510-800-8000) in the amount of $61,000, and

WHEREAS, the Finance Committee, at its March 26, 2007 meeting, recommended approval of this item,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby authorizes amending the Capital Improvement Program Budget for FY 2006-07 to create a new project 0510-160-E691 – Traffic Operations Facility.

BE IT FURTHER RESOLVED that the Council hereby authorizes the appropriation of $61,000 from Local Transportation Fund Reserves (0510-800-8000) to fund paving and drainage-related landscaping by City Forces at the 117 Elm Street Building.

BE IT FURTHER RESOLVED that the Finance Department is hereby authorized to implement the provisions of this resolution.
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 8th day of May, 2007 by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Keating, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Dunbar, Hawn, Keating, Marsh, O’Byrant, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: Olsen

ATTEST:

JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

BY: SUSANA ALCALA WOOD
   City Attorney
A RESOLUTION APPROVING THE CITY OF MODESTO DRAFT 2007-2008 HUD ANNUAL ACTION PLAN FOR THE USE OF COMMUNITY DEVELOPMENT BLOCK GRANT (CDBG), HOME PARTNERSHIP GRANT (HOME), AND EMERGENCY SHELTER GRANT (ESG) FUNDS, AUTHORIZING SUBMISSION OF AN APPLICATION TO THE U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT PERTAINING TO THE 2007-2008 ANNUAL ACTION PLAN, AND AUTHORIZING THE CITY MANAGER OR HIS DESIGNEE TO SIGN THE REQUIRED CERTIFICATIONS AND DOCUMENTS FOR SUBMITTAL TO THE DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT (HUD).

WHEREAS, the City of Modesto receives Community Development Block Grant (CDBG), HOME Investment Partnership Grant (HOME), and Emergency Shelter Grant (ESG) funds from the U.S. Department of Housing and Urban Development (HUD), and

WHEREAS, the City receives these grants annually because of its population size, number of households living below the poverty line, and the number of housing units that are considered substandard, and

WHEREAS, submittal of an Annual Action Plan is required to receive the City’s entitlement grants from HUD, and

WHEREAS, the Citizens Housing and Community Development Committee (CH&CDC) recommended support of this item at its May 2, 2007, meeting, and

WHEREAS, a duly noticed public hearing was held by the City Council on May 8, 2007, in the Tenth Street Place Chambers located at 1010 Tenth Street, Modesto, California, to consider submission of an application to the U.S. Department of Housing and Development (HUD) pertaining to the 2007-2008 HUD Annual Action Plan, which describes how the City intends to spend Federal assistance received from HUD in the areas of Community Development, Housing Production and Homeless Assistance,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the City of Modesto draft 2007-2008 HUD Annual Action Plan for the use of...
Community Development Block Grant (CDBG), HOME Investment Partnership Program (HOME) and the Emergency Shelter Grant (ESG), a copy of which is on file in the Office of the City Clerk.

BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to execute the required certificates and documents.

BE IT FURTHER RESOLVED that City staff is hereby authorized to submit an application to the U.S. Department of Housing and Urban Development (HUD) pertaining to the 2007-2008 Annual Action Plan which describes how the City intends to spend Federal assistance received from HUD in the areas of Community Development, Housing Production and Homeless Assistance.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 8th day of May, 2007, by Councilmember Dunbar, who moved its adoption, which motion being duly seconded by Councilmember Marsh, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: None

Attest: ____________________________
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By: ____________________________
SUSANA ALCALA WOOD, City Attorney
WHEREAS, Section 7-3.401 of the Modesto Municipal Code authorizes Council, by resolution, to establish rental charges and fees for activities and services at the Modesto City-County Airport/Harry Sham Field, and

WHEREAS, Modesto City Council Resolution No. 2003-267 provides for Airport rate increases based upon the Consumer Price Index (CPI) for All Urban Consumers for the western United States, and

WHEREAS, during the past year the Consumer Price Index (CPI) of the western United States increased at a rate of three and four-tenths percent (3.4%), and

WHEREAS, Modesto City Council Resolution No. 2006-272 established the current Airport Rental Charges and Fees and contained provisions for a rate increase to go into effect July 1, 2006 based upon an increase in the Consumer Price Index, and

WHEREAS, the Modesto City-County Airport Advisory Committee recommended adoption of the 3.4% rate increase at its meeting on March 21, 2007, and

WHEREAS, by an agenda report to the Economic Development Committee on April 18, 2007 from the Public Works Director, City staff recommended a rate increase of 3.4% for aircraft hangars, office space, and tie-down rentals, and

WHEREAS, a duly noticed public hearing was held by the Council on May 8, 2007 at 5:30 p.m. in the Tenth Street Place Chambers located at 1010 Tenth Street, Modesto, California, at which hearing all interested persons were given the opportunity to
be heard relative to the proposal to increase the rates and charges for the Modesto City-
County Airport’s aircraft hangars, office space, and tie-down rentals,

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

SECTION 1. HANGARS. Rental charges for the rental of hangars at the
Modesto City-County Airport/Harry Sham Field are hereby established as follows,
payable in advance:

(a) T-Hangars

<table>
<thead>
<tr>
<th>Hangar</th>
<th>End Units</th>
<th>Rate</th>
</tr>
</thead>
<tbody>
<tr>
<td>A</td>
<td>End</td>
<td>$125/$153 unit per month</td>
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<td></td>
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<td>B</td>
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<tr>
<td>D</td>
<td>End</td>
<td>$143/$171 unit per month</td>
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<td></td>
<td>Units</td>
<td>$170/$199 unit per month</td>
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<tr>
<td>E</td>
<td>End</td>
<td>$208 unit per month</td>
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<td></td>
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<td>End</td>
<td>$208 unit per month</td>
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<tr>
<td></td>
<td>Units</td>
<td>$243 unit per month</td>
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<td>End</td>
<td>$208 unit per month</td>
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<td>H</td>
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<td>$208 unit per month</td>
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<td>I</td>
<td>End</td>
<td>$407 unit per month</td>
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<tr>
<td></td>
<td>Unit</td>
<td>$349 unit per month</td>
</tr>
<tr>
<td>Storage</td>
<td></td>
<td>$83 per month</td>
</tr>
</tbody>
</table>
Portable Land Rent ................ $61 unit per month

(* T-Hangars A – D with electrical service)

(b) Storage Hangars:

Hangar No. 1 .... $1,525.00 per month
Hangar No. 2 .... $1,273.00 per month
Hangar No. 3 .... $ 670.00 per month
Hangar No. 4 .... $1,141.00 per month
Hangar No. 5 .... $1,135.00 per month
Hangar No. 6 .... $ 665.00 per month

A five percent (5%) discount will be made in any of the above rental charges when a year’s lease is entered into and the year’s rental charges are paid in advance.

SECTION 2. TIE-DOWN FEES. Tie-down charges and fees at the Modesto City-County Airport/Harry Sham Field are hereby established as follows, payable in advance:

(a) Tail-in Tie-Down – Permanent, light single and multi-engine (under 12,500 lbs.) $38.00 per month
(b) Taxi-in Tie-Down – Permanent, light single and multi-engine (under 12,500 lbs.) $61.00 per month
(c) Taxi-in Tie-Down – Permanent, large multi-engine (over 12,500 lbs.) $.044 per square foot per month
(d) Taxi-in Tie-Down – Transient, helicopter/single-engine aircraft $7.00 per day
(e) Taxi-in Tie-Down – Transient, twin-engine aircraft (under 12,500 lbs.) $9.00 per day
Taxi-In Tie-Down – Transient, twin-engine aircraft (over 12,000 lbs.)
$13.00 per day

Jets – $13.00 per day

A five-percent (5%) discount will be made in the rental charges set forth in
subparagraphs (a), (b), and (c), above when a year’s lease is entered into and the year’s
rental charges are paid in advance.

A volume discount may be given to Fixed Base Operators (FBO) that operate
flight schools for light single and multi-engine aircraft (under 12,500 lbs.) for tie-down
spaces as set forth in subsections (a) and (b) above. For every two tail-in spaces the FBO
agrees to lease, one taxi-in tie-down may be leased for the same price as a tail-in tie-
down.

Overnight tie-down of aircraft belonging to or in the custody or possession of a
lessee at the Modesto City-County Airport/Harry Sham Field shall be subject to the
normal tie-down charge as specified by this section.

SECTION 3. OFFICE SPACE. The monthly charge for office spaces at the
Modesto City-County Airport/Harry Sham Field are hereby established as follows:

(a) Old Administration Building ..................... $ .84 per square foot
(b) Office Building No. 1  ..................... $ .84 per square foot
(c) Office Building No. 2  ..................... $ .84 per square foot
(d) Hangar Office Space ..................... $ .491 per square foot

SECTION 4. TEMPORARY USE OF AIRPORT PASSENGER TERMINAL.
Organization and service providers desiring to temporarily use the passenger terminal
will be charged a daily rate:
(a) Ticket counter ........................................... $0.092 per square foot
(b) Other areas .................................................. $0.092 per square foot

SECTION 5. NONSCHEDULED TRANSIENT AIRCRAFT CARRYING
PASSENGERS AND/OR CARGO FOR HIRE. Aircraft landing at the Modesto City-
County Airport/Harry Sham Field shall pay a landing fee as follows:

(a) All light single, multi-engine aircraft and helicopters - $10.00 per landing
(b) All large single and multi-engine aircraft – $0.66 per 1,000 pounds of gross
weight, but not less than $10.00 per landing
(c) All transient aircraft owned and operated by individuals, companies, and
corporations carrying their own products shall not be charged for the first
two (2) trips per calendar months. All other trips for the same calendar
month shall be charged for at the same rates applied to nonscheduled
aircraft carrying cargo for hire.
(d) No landing fee shall be charged for any aircraft, which lands at the airport
due to any mechanical or other emergency, except weather, provided that
such emergency is reported to the Airport Control Tower prior to landing.

SECTION 6. PASSENGER FACILITY CHARGE (PFC). Commercial air
carrying passengers excluding “frequent flyers” or similar airline bonus award enplaning
at Modesto City-County Airport/Harry Sham Field shall pay a PFC as approved by
Federal Aviation Regulations (FAR) Part 158.

(a) Enplane passenger by airline $3.00 per ticket passengers.

SECTION 7. ADVERTISEMENT CALLBOARD. Firms wishing to advertise in
the airport passenger terminal shall have an approved agreement with the City of
Modesto. A monthly charge shall be assessed for the use of the advertisement callboard
as follows

<table>
<thead>
<tr>
<th>Display Size</th>
<th>Display Only</th>
<th>Display &amp; Telephone</th>
</tr>
</thead>
<tbody>
<tr>
<td>7.5” x 9.5”</td>
<td>$15.00</td>
<td>$25.00</td>
</tr>
</tbody>
</table>
SECTION 8. FAX SERVICE. Persons wishing to use the airport administration office fax machine shall be charged for the service. Airport personnel is authorized to collect as follows:

(a) Incoming Service ................ $ .50 per page

(b) Outgoing Service ................ Area code 209 - $ 1.00 per page
                                      Other area codes - $ 2.00 first page
                                      $ 1.50 - all other pages

SECTION 9. PERMANENTLY BASED COMMERCIAL SERVICES. Any person engaging in a commercial enterprise permanently based at the Modesto City-County Airport/Harry Sham Field shall pay to the City a fee equivalent to the City Business License Fees set forth in Chapter 1 of Title 6 of the Modesto Municipal Code, except that a minimum fee of $100 will be paid for each aircraft sold, for the privilege of engaging in business in the City of Modesto and on the Airport. Said sum shall be payable at the time and in the manner provided for in Chapter 1 of Title 6 of the Modesto Municipal Code.

SECTION 10. FUEL FLOWAGE FEES. A fuel flowage fee of six cents ($.06) per gallon of fuel sold or dispensed on the Airport shall be collected for the City of Modesto by the fuel vendors, except that reduced fuel flowage fees collected from scheduled air carriers can be negotiated for volume purchases.

SECTION 11. TEMPORARILY BASED COMMERCIAL SERVICES. Any person engaging in a commercial enterprise, temporarily based at the Modesto City-County Airport/Harry Sham Field, shall pay to the City a license fee in the sum of Two Hundred and no/100ths ($200.00) Dollars, payable in advance.
Each such operator shall also pay to the City as a minimum an additional sum of Ninety and no/100ths ($90.00) Dollars per month, or any portion thereof, payable in advance, for the privilege of using the Airport and its facilities.

SECTION 12. OFF-AIRPORT CAR RENTAL OPERATOR FEE. Off-airport operators picking up customers at the Modesto City-County Airport/Harry Sham Field will pay to the City of Modesto the greater of ten percent (10%) of gross on time mileage of vehicles rented or the monthly charge for passenger terminal advertisement space and callboard phone service. Additionally, the operators will be accessed a parking fee at the same rate on-airport car rental operators are charged for vehicles left in the public parking area overnight.

SECTION 13. MOTOR VEHICLE STORAGE CHARGES. Any person who parks a motor vehicle at the Modesto City-County Airport/Harry Sham Field for longer than thirty (30) days at a time shall pay to the City a parking fee of Twenty-five and no/100ths ($25.00) Dollars per month, payable in advance.

SECTION 14. PENALTIES. A five percent (5%) per month penalty charge shall be made on any of the charges and fees established by this resolution when such charges and fees are not paid within thirty (30) days after they are due and payable. No penalties will be collected on the PFC.

SECTION 15. ANNUAL ADJUSTMENT OF RENTS, FEES AND CHARGES. Commencing July 1, 2005, the rents, fees and charges set forth in Sections 1, 2, and 4 of this resolution may be adjusted annually as of the first day of July.

Said rents, fees, and charges shall be adjusted in the following manner: The base for computing the adjustment is the National Consumer Price Index for the West Urban
(all urban consumers), published by the United States Department of Labor, Bureau of Labor Statistics ("Index"), with a base year of 1982 – 1984 = 100 ("Beginning Index"). The Index published most immediately preceding the Adjustment Date in question ("Adjustment Index") is to be used in determining the amount of the adjustment. If the Adjustment Index has increased over the Beginning Index, the rents, fees and charges set forth in this resolution shall be set by multiplying the rents, fees and charges set forth in this resolution by a fraction, the numerator of which is the Adjustment Index and the denominator of which is the Beginning Index.

In no case shall the minimum rents, fees and charges be less than existing approved and adopted rents, fees and charges nor shall any increase in a year be greater than five (5%) percent. If the indexes change so that the base year differs from that in effect on July 1, 2005, the Index shall be converted in accordance with the conversion factor published by the United States Department of Labor, Bureau of Labor Statistics. If the Index is discontinued or revised at any time after the effective date of this resolution, such other government index or computation with which it is replaced shall be used in order to obtain substantially the same result as would be obtained if the Index had not been discontinued or revised.

SECTION 16. EFFECTIVE DATE. This resolution shall go into effect and be in full force and operation on July 1, 2007.

SECTION 17. SUPERSEDE. This resolution rescinds Council Resolution No. 2006-272.
The foregoing resolution was introduced at a special meeting of the Council of the City of Modesto held on the 8th day of May, 2007 by Councilmember Marsh, who moved its adoption, which motion being duly seconded by Councilmember Hawn was upon roll call carrier and the resolution adopted by the following vote:

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

NOES: Councilmember: None

ABSENT: Councilmember: None

ATTEST: Jean Morris
JEAN MORRIS, City Clerk

(SEAL)

APPROVED AS TO FORM:

by Susana Alcala Wood, City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2007-283

A RESOLUTION APPROVING SUBMITTAL OF A GRANT APPLICATION TO THE FEDERAL TRANSIT ADMINISTRATION (FTA) REQUESTING $2,582,599 IN SECTION 5307 FORMULA FUNDS FOR PUBLIC TRANSIT OPERATING AND CAPITAL PURPOSES AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE ALL GRANT APPLICATION AND GRANT AGREEMENT DOCUMENTS.

WHEREAS, the Federal Transit Administration (FTA) has been delegated authority to award federal financial assistance for transportation related projects, and

WHEREAS, the City of Modesto has provided all annual certifications and assurances to the FTA required for the projects, and

WHEREAS, each year the City of Modesto submits a grant application for Section 5307 funds from the formula apportionment made available to the Modesto Urbanized area by the FTA, and

WHEREAS, the City of Modesto has received authority from the Designated Recipient, StanCOG, to apply for Section 5307 Urban Area Formula Program Assistance for no more than $2,582,599 for FY 2006-2007, and

WHEREAS, the projects in the Section 5307 grant application are included in the Federal Transportation Improvement Program (FTIP) adopted by StanCOG, and

WHEREAS, the grant for Federal assistance will impose certain obligations on the City of Modesto, and may require the City to provide the local share of the project costs, and

WHEREAS, by a report to the Council dated April 19, 2007, from the Public Works Department, City staff recommended submitting a grant application for $2,582,599 in FTA Section 5307 formula funds to partially offset the operational and capital costs of the City’s public transit program, and

WHEREAS, a public hearing was held on May 8, 2007, at 5:30 p.m., in the Tenth Street Place Chambers located, at 1010 Tenth Street, Modesto, California, in accordance with FTA regulations,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby authorizes approves the submittal of a grant application for Federal funds in
the amount of $2,582,599. Section 5307 with the Federal Transit Administration (FTA) for Federal assistance authorized by 49 U.S.C. Chapter 53, Title 23, United States Code, or other Federal statutes authorizing a project administered by the FTA.

BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to execute and file the annual certifications and assurances and other documents the FTA requires for awarding a federal assistance grant.

BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to execute all necessary grant documents with the FTA on behalf of the City of Modesto.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 8th day of May, 2007, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Keating, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: None

Attest: [Signature]
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By: [Signature]
Susana Alcala Wood, City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 200-284

A RESOLUTION AUTHORIZING THE FILING OF AMENDMENT NO. 3 TO GRANT NUMBER CA-03-0562 FOR THE NEW BUS MAINTENANCE FACILITY WITH THE FEDERAL TRANSIT ADMINISTRATION UNDER SECTION 5309 OF THE FEDERAL TRANSIT ACT IN THE AMOUNT OF $337,843 AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE ALL GRANT AMENDMENT DOCUMENTS.

WHEREAS, the Federal Transit Administration (FTA) has been delegated authority to award federal financial assistance for transportation related projects, and
WHEREAS, the City of Modesto has provided all annual certifications and assurances to the FTA required for the projects, and
WHEREAS, the City of Modesto had an approved Federal Transit Administration (FTA) Section 5309 grant for $3,668,116 in federal funds for the new Bus Maintenance Facility, and
WHEREAS, on June 26, 2003, by Resolution No. 2003-328 the City Council approved Amendment No. 1 to the Section 5309 grant that added $445,585 to the approved amount of federal funds for said project, and
WHEREAS, on June 28, 2005, by Resolution No. 2005-339 the City Council approved Amendment No. 2 to the Section 5309 grant that added $3,277,064 to the approved amount of federal funds for said project, and
WHEREAS, $337,843 in Section 5309 funds have been earmarked by Congress for the Bus Maintenance Facility under SAFETEA, and
WHEREAS, an amendment to the current Section 5309 grant, as amended by Amendment No. 1 and Amendment No. 2, is required to access these earmarked funds, and
WHEREAS, the Bus Maintenance Facility project funds in the Section 5309 grant amendment application are included in the Federal Transportation Improvement Program (FTIP) adopted by StanCOG, and
WHEREAS, the grant amendment for Federal assistance will impose certain obligations on the City of Modesto, and may require the City to provide the local share of the project costs, and

WHEREAS, by a report to the Council dated April 19, 2007, from the Public Works Department, City staff recommended amending the current FTA Section 5309 grant for the Bus Maintenance Facility, and

WHEREAS, a public hearing was held on May 8, 2007, at 5:30 p.m., in the Tenth Street Place Chambers located, at 1010 Tenth Street, Modesto, California, in accordance with FTA regulations,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby authorizes the filing of Amendment No. 3 in the amount of $337,843 to Federal Section 5309 Grant Number CA-03-0562 for the new bus maintenance with the Federal Transit Administration (FTA) for Federal assistance authorized by 49 U.S.C. Chapter 53, Title 23, United States Code, or other Federal statutes authorizing a project administered by the FTA.

BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to execute all grant application and grant agreement documents.

BE IT FURTHER RESOLVED that the City Manager, or his designee, is authorized to execute and file the annual certifications and assurances and other documents the FTA requires for awarding a federal assistance grant.

BE IT FURTHER RESOLVED that the City Manager, or his designee, is authorized to execute all necessary grant documents with the FTA on behalf of the City of Modesto.
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 8th day of May, 2007, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Keating, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: None

Attest:  
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By:  
Susana Alcala Wood, City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 200-285

A RESOLUTION AUTHORIZING THE FILING OF AMENDMENT NO. 4 TO GRANT NUMBER CA-03-0562 FOR THE NEW BUS MAINTENANCE FACILITY WITH THE FEDERAL TRANSIT ADMINISTRATION UNDER SECTION 5309 OF THE FEDERAL TRANSIT ACT IN THE AMOUNT OF $495,000 AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE ALL GRANT AMENDMENT DOCUMENTS.

WHEREAS, the Federal Transit Administration (FTA) has been delegated authority to award federal financial assistance for transportation related projects, and

WHEREAS, the City of Modesto has provided all annual certifications and assurances to the FTA required for the projects, and

WHEREAS, the City of Modesto had an approved Federal Transit Administration (FTA) Section 5309 grant for $3,668,116 in federal funds for the new Bus Maintenance Facility, and

WHEREAS, on June 26, 2003, by Resolution No. 2003-328 the City Council approved Amendment No. 1 to the Section 5309 grant that added $445,585 to the approved amount of federal funds for said project, and

WHEREAS, on June 28, 2005, by Resolution No. 2005-339 the City Council approved Amendment No. 2 to the Section 5309 grant that added $3,277,064 to the approved amount of federal funds for said project, and

WHEREAS, on May 8, 2007, by Resolution No. 2007-284 the City Council approved Amendment No. 3 to the Section 5309 grant that added $337,843 to the approved amount of federal funds for said project, and

WHEREAS, $495,000 in Section 5309 federal funds for the Bus Maintenance Facility have been earmarked by Congress under SAFETY-LU for this project, and

WHEREAS, an amendment to the current Section 5309 grant, as amended by Amendment No. 1, Amendment No. 2, and Amendment No. 3 is required to access these earmarked funds, and
WHEREAS, the Bus Maintenance Facility project funds in the Section 5309 grant amendment application are included in the Federal Transportation Improvement Program (FTIP) adopted by StanCOG, and

WHEREAS, the grant amendment for Federal assistance will impose certain obligations on the City of Modesto, and may require the City to provide the local share of the project costs, and

WHEREAS, by a report to the Council dated April 19, 2007, from the Public Works Department, City staff recommended amending the current FTA Section 5309 grant for the Bus Maintenance Facility, and

WHEREAS, a public hearing was held on May 8, 2007, at 5:30 p.m., in the Tenth Street Place Chambers located, at 1010 Tenth Street, Modesto, California, in accordance with FTA regulations,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby authorizes the filing of Amendment No. 4 in the amount of $495,000 to Federal Section 5309 Grant Number CA-03-0562 for the new bus maintenance with the Federal Transit Administration (FTA) for Federal assistance authorized by 49 U.S.C. Chapter 53, Title 23, United States Code, or other Federal statutes authorizing a project administered by the FTA.

BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to execute all grant application and grant agreement documents.

BE IT FURTHER RESOLVED that the City Manager, or his designee, is authorized to execute and file the annual certifications and assurances and other documents the FTA requires for awarding a federal assistance grant.

BE IT FURTHER RESOLVED that the City Manager, or his designee, is authorized to execute all necessary grant documents with the FTA on behalf of the City of Modesto.
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 8th day of May, 2007, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Keating, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Dunbar, Hawn, Keating, Marsh, O’Byrant, Olsen, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

Attest: 
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By: 
Susana Alcala Wood, City Attorney
A RESOLUTION APPROVING SUBMITTAL OF A GRANT APPLICATION TO THE FEDERAL TRANSIT ADMINISTRATION (FTA) REQUESTING IN $6,498,968 SECTION 5309 COMPETITIVE FUNDS FOR THE NEW BUS MAINTENANCE FACILITY AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE ALL GRANT APPLICATION AND GRANT AGREEMENT DOCUMENTS.

WHEREAS, the Federal Transit Administration (FTA) has been delegated authority to award federal financial assistance for transportation related projects, and

WHEREAS, the City of Modesto has provided all annual certifications and assurances to the FTA required for the project, and

WHEREAS, the City of Modesto is in need of a new Bus Maintenance Facility at a cost of $19,303,224, and

WHEREAS, the project is eligible to receive up to $15,442,579 in FTA funds,

WHEREAS, to date the City of Modesto has received $8,943,608 in FTA Section 5307 and Section 5309 funding for the project, and

WHEREAS, the project is eligible to receive an additional $6,498,968 in FTA funds, and

WHEREAS, FTA funding for the Bus Maintenance Facility grant application is included in the Federal Transportation Improvement Program (FTIP) adopted by StanCOG, and

WHEREAS, the grant for Federal assistance will impose certain obligations on the City of Modesto, and may require the City to provide the local share of the project cost, and

WHEREAS, by a report to the City Council dated April 19, 2007, from the Public Works Department, City staff recommended submitting an application for an FTA Section 5309 grant in the amount of $6,498,968 for the Bus Maintenance Facility, and

WHEREAS, a public hearing was held on May 8, 2007, at 5:30 p.m., in the Tenth Street Place Chambers located at 1010 Tenth Street, Modesto, California, in accordance with FTA regulations,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto
that it hereby approves the submittal of a grant application for Federal Section 5309 funds on behalf of the City of Modesto with the Federal Transit Administration (FTA) for Federal assistance authorized by 49 U.S.C. Chapter 53, Title 23, United States Code, or other Federal statutes authorizing a project administered by the FTA.

BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to execute all grant application and grant agreement documents.

BE IT FURTHER RESOLVED that the City Manager, or his designee, is authorized to execute and file the annual certifications and assurances and other documents the FTA requires for awarding a federal assistance grant.

BE IT FURTHER RESOLVED that the City Manager, or his designee, is authorized to execute all necessary grant documents with the FTA on behalf of the City of Modesto.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 8th day of May, 2007, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Keating, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: None

Attest: Jean Morris, City Clerk

APPROVED AS TO FORM:

By: Susana Alcala Wood, City Attorney
AMENDED
MODesto CITY COUNCIL
RESOLUTION NO. 2007-287

A RESOLUTION AMENDING AND RESTATING RESOLUTION NO. 93-265, RESCINDING BONd REDEMPTION CHARGES, AND ESTABLISHING WASTEWATER CAPACITY CHARGES

WHEREAS, Section 5-6.801 of the Modesto Municipal Code provides that the Council may establish by resolution charges for the Connection of property to the sewage system, and

WHEREAS, engineering consultants have recommended certain improvements to the City’s Wastewater Transmission and Treatment Systems System and estimated the total cost both of the improvements and of the correction of existing Deficiencies, and

WHEREAS, rate consultants have apportioned the costs among the City’s wastewater user classifications in accordance with Unit costs attributable to sewage Flow, Strength and Solids Content, and

WHEREAS, Resolution No. 93-265 is amended below with respect to its Sections 1 and 2, and is reaffirmed and restated in every other respect, and

WHEREAS, a method of administration for adjustment of Capacity Charges to account for inflation in construction projects should be specified, and

WHEREAS, there is a need for policies to deal consistently with calculation of Capacity Charges for transitional properties, the City Council does amend and restate Resolution No. 93-265 to rescind Section 1 therein, and to restate Section 2, below, and to add additional sections as follows, and

WHEREAS, The California Environmental Quality Act requires analysis for changes in Capacity Charges, and such analysis was completed in the Master
Environmental Impact Report (SCH No. 2006052076) certified by the Council on March 13, 2007,

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

Definitions:

Capacity Charge - A one-time charge to be paid by or on behalf of a prospective wastewater discharger for new or modified facilities existing in, or planned to be added to the City Wastewater System, minus Deficiencies.

City Wastewater System - The City’s physical assets dedicated to the provision of wastewater transmission and treatment, including assets for the collection, treatment, pumping, storage, land application, metering, testing and reporting of wastewater, within or connected to physical assets in City’s Municipal Sewer District No. 1.

Connection - The attachment of pipe facilities to the City Wastewater System to commence wastewater transmission and treatment service.

Deficiencies - Wastewater facilities required by law or recommended by generally recognized authority as being necessary to the provision of a modern, safe, adequate, wastewater system of the City’s size, with prudent reserves of transmission and treatment infrastructure to meet reasonable foreseeable contingencies that are absent from the City Wastewater System at any particular point in time.

Director - The Public Works Director of the City of Modesto, his/her designee, or the Acting or Interim Public Works Director, as the case may be.
Equivalent Dwelling Unit or EDU – A single family equivalent dwelling unit based upon standardized, estimated discharge characteristics of a typical single family dwelling of 290 gallons per day (gpd), 200 milligrams per liter (mg/L) of strength Five Day Biochemical Oxygen Demand (BOD), and 200 mg/L of Total Suspended Solids content (TSS).

Flow - The actual or estimated maximum daily quantity of wastewater being transmitted for treatment expressed in gallons per day.


Solids Content - A synonym for Total Suspended Solids (TSS), the primary indicator of the cost of treatment and/or removal of the solid components of wastewater expressed in pounds per day.

Strength - A synonym for Five Day Biochemical Oxygen Demand (BOD), the primary indicator of the cost of treatment of the organic content of wastewater expressed in pounds per day.

Unit Cost - The cost in dollars and/or cents per gallon or pound, as appropriate, to transmit and/or treat wastewater or its constituent components.

Wastewater- For purposes of interpreting this resolution the term sewer and wastewater are interchangeable.

SECTION 1. Section 1 of Resolution No. 93-265 is hereby rescinded in its entirety, and a new and different Section 1 is amended in its place, enacted and set forth in full as follows:

A. The Capacity Charge for an EDU on or after August 1, 2007, shall be $4,876.00.
B. The Unit Cost capacity charges for connecting dischargers classified as commercial or industrial on and after August 1, 2007, shall be 14.073 dollars per gallon per day of Flow, $1,299.175 per pound of BOD per day (organic strength), and $345.209 per pound of TSS per day (solids content).

SECTION 2. The Capacity Charge for residential construction set forth above shall be paid at the time a building permit is issued for a building or structure. In those cases where a building exists, the Capacity Charge shall be collected at the time at which a plumbing permit is issued to connect the building or structure to the City Wastewater System. The Capacity Charge for industrial and commercial property set forth above shall be paid at the time an encroachment permit is issued for the connection. The Council may, by resolutions adopted from time to time, establish conditions under which a Capacity Charge may be spread over time and paid in installments.

SECTION 3. Section 2 of Resolution No. 93-265 is hereby amended and restated as follows:

SCHEDULE OF CHARGES
FOR CONNECTION TO CITY WASTEWATER SYSTEM

<table>
<thead>
<tr>
<th>MMC Reference</th>
<th>Name of Charge and Itemization</th>
<th>Charge</th>
</tr>
</thead>
<tbody>
<tr>
<td>5-6.802</td>
<td>Subtrunk Extension Charge:</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Residential &amp; Commercial</td>
<td>$645.00 per gross acre</td>
</tr>
</tbody>
</table>

The acreage used to determine wastewater subtrunk connection fees shall be as follows:
The acreage used to determine the wastewater subtrunk fee shall be the total area developed or being developed which is owned, leased or controlled by the user.

In those instances where the total acreage owned, leased or controlled by the user is greater than that developed, the Director is authorized to determine the acreage to be used in determining the subtrunk extension charge. The remaining acreage shall pay a subtrunk extension charge at such time as that acreage is developed.

Notwithstanding anything to the contrary contained in Chapter 6 of Title V of the M.M.C. and this resolution, the Council shall have the power to determine, by agreement, the total acreage developed or being developed which is owned, leased or controlled by a user meeting the criteria set forth below:

1. The user will establish a new industry or expand an existing industry within the Modesto Municipal Sewer District that results in more than 225 (two hundred twenty-five) new, permanent, on-site, full-time employees; and

2. The user will construct a new industrial building or building addition with total floor space in excess of one hundred seventy-five thousand (175,000) square feet with total project costs in excess of twenty million dollars ($20,000,000).

If the property is later developed beyond that development approved by the Council, the developer shall pay a wastewater subtrunk charge on the additional acreage developed, including any portion of the property that has already been developed but, for whatever reason, has not been included in the calculation of wastewater subtrunk redemption charges. If the user fails to meet either of the criteria after development, the agreement shall be void and a wastewater subtrunk charge shall be paid based on the total acreage developed or being developed had the above criteria not been applied.

SECTION 4. Policies affecting applicable wastewater Capacity Charges in various circumstances:

1. Commercial and Industrial Capacity Charges shall be based solely upon estimated or actual wastewater Flow, Strength and Solids Content.
2. The Director shall develop a schedule of estimated Flow, Strength and Solids Content for new or modified connections.

3. The Director shall also develop a schedule of estimated or actual Flow, Strength and Solids Content for any proposed changes in use, building or structure footprint, size of a parcel, or partial development of a larger parcel which, in the reasonable discretion of the Director, could result in a net change in wastewater Flow, Strength and/or Solids Content.

4. Where use or size changes or partial development result in an estimated net change in estimated or actual Flow, Strength and Solids Content, the Capacity Charge shall be calculated using the appropriate EDU or Unit Costs for that net change.

5. When the remainder of a partially developed parcel is improved, the Capacity Charge for the improved portion of the parcel shall be calculated based upon estimated Flow, Strength and Solids Content.

6. The Director shall review the actual water use for each commercial and industrial account approximately 12 months post-connection to verify the original Flow estimate.

7. The Director may review the Flow, Strength and Solids Content of commercial and industrial accounts approximately 12 months post-connection to verify the original estimates.

8. If any of the above post-connection reviews reveals a variance of at least plus or minus 10% from the estimated Capacity Charge components, additional Capacity Charges or refund of the variance shall result based on the entire variance.
9. Where the bond redemption charge has been paid for an entire parcel which is not completely developed, the Capacity Charge for the undeveloped portion shall be calculated based on the estimated Flow, Strength and Solids Content expected from the land to be developed, and reduced by the part of the previously paid bond redemption charge proportional to the previously undeveloped area of the entire parcel.

10. If a parcel contains more than one use, the Capacity Charge shall be based on the sum of the estimated Flow, Strength and Solids Content from each expected use. In cases where the specific future use is not known, the Director shall develop a composite estimated Flow, Strength and Solids Content based on similar type developments.

SECTION 5. Inflator Index: The Capacity Charge components set forth above shall be re-examined every two years by engineers, consultants, and professionals competent in their field. Such engineers, consultants and professionals shall provide a report to the City updating Flow, Strength and Solids Content Unit Costs, as appropriate, and as recommended to the Council by the Finance Director and the Director. After June 30, 2008, the Director shall have the authority, on an annual basis, effective July 1 of each year, to adjust Flow, Strength and/or Solids Content based costs by an amount not to exceed the annual percentage increase reported in the month of April in the Construction Cost Index found in the Engineering News Record for the San Francisco region.
The foregoing resolution was introduced at a regular meeting of the 
Council of the City of Modesto held on the 8th day of May, 2007, by Councilmember 
Hawn, who moved its adoption, which motion being duly seconded by Olsen, was upon 
roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Morris
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By Susana Alcala Wood, City Attorney